

**APPENDIX**

Sent to Governor

(May 23, 1979)

**S.C.R. 57****S.B. 257****S.B. 357****S.B. 432****S.B. 472****S.B. 486****S.B. 491****S.B. 613****S.B. 675****S.B. 706****S.B. 817****S.B. 906****S.B. 979****SEVENTY-SIXTH DAY**

(Thursday, May 24, 1979)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

A quorum was announced present.

Chaplain Gerald Mann, University Baptist Church, Austin, offered the invocation as follows:

Our Father, as this session draws to a close, we pray that You would judge its success by the point below which it allows the weakest in our State to fall. Amen.

On motion of Senator Moore and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 24, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT  
THE HOUSE HAS PASSED THE FOLLOWING:

**S.B. 276** Relating to regulation of nursing home administrators. (With amendments)

**S.B. 681** Relating to expiration, revenue, and bonding authority of the Battleship Texas Commission. (With amendments)

**S.B. 985** Relating to educational requirements for jail personnel. (With amendment)

**S.B. 1269** Relating to a Foster Grandparent Program administered by the Governor's Committee on Aging.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 409 by a vote of 92 Ayes, 41 Noes, 11 Present-Not Voting.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### **REPORTS OF STANDING COMMITTEES**

Senator Creighton submitted the following report for the Committee on Economic Development:

**H.B. 2239**  
**H.B. 2155**  
**C.S.H.B. 2030** (Read first time)  
**H.B. 1912**

Senator Moore submitted the following report for the Committee on State Affairs:

**H.B. 2244** (Amended)  
**C.S.H.B. 915** (Read first time)  
**C.S.H.B. 594** (Read first time)  
**H.B. 1455**  
**H.B. 1382**  
**H.B. 1242**  
**H.B. 1969**  
**H.C.R. 92**  
**H.B. 2206**  
**H.J.R. 91**  
**H.B. 2104**  
**H.B. 1990**  
**H.B. 1303**  
**H.B. 2051**  
**H.B. 1784**  
**H.B. 1224**

**H.B. 865**  
**H.B. 876**  
**H.B. 1730**  
**H.J.R. 133**  
**C.S.H.B. 916** (Read first time)

Senator Brooks submitted the following report for the Committee on Human Resources:

**S.R. 536**

Senator Snelson submitted the following report for the Committee on Intergovernmental Relations:

**H.B. 2256**  
**H.B. 2182**  
**H.B. 2175**  
**C.S.H.B. 2100** (Read first time)  
**H.B. 621**  
**H.B. 2220**  
**H.B. 2236**  
**H.B. 2253**  
**H.B. 620**  
**H.B. 2160**  
**H.B. 2184**  
**H.B. 2264**  
**H.B. 798**  
**H.B. 1463**  
**H.B. 1355**

Senator Farabee submitted the following report for the Committee on Jurisprudence:

**C.S.H.B. 595** (Read first time)  
**H.B. 31** (Amended)  
**H.B. 399**  
**H.B. 735** (Amended)  
**H.B. 1096**  
**H.B. 1566**  
**H.B. 1742**  
**S.R. 605**  
**H.B. 1806**  
**H.J.R. 34** (Amended)

Senator Jones of Harris submitted the following report for the Committee on Administration:

**H.B. 2222** (Ordered not printed)

#### **SENATE RESOLUTIONS ON FIRST READING**

On motion of Senator Mauzy and by unanimous consent, the following resolutions were introduced, read first time and referred to the Committee indicated:

**S.R. 631** by Mauzy

Education

Directing the Senate Education Committee staff to make a comprehensive study of the total needs for continuing adult education in Texas over the decade 1980-1989.

**S.R. 632** by Mengden

Jurisprudence

Directing the Senate Committee on Jurisprudence to study the problem of convenience store robberies.

**S.C.R. 94** by Snelson

Intergovernmental Relations

Authorizing continuation of interagency contracting between Legislative Council and State Commission for the Blind.

### HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

**H.B. 1325**, To Committee on Intergovernmental Relations.

**H.B. 1971**, To Committee on Natural Resources.

**H.B. 351**, To Committee on State Affairs.

### CONFERENCE COMMITTEE REPORT SENATE BILL 74

Senator Mengden submitted the following Conference Committee Report:

Austin, Texas  
May 18, 1979

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 74** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MENGDEN  
WILLIAMS  
TRAEGER  
BLAKE  
PARKER  
On the part of the Senate

BOCK  
RAINS  
PIERCE  
LYON  
WASHINGTON  
On the part of the House

## A BILL TO BE ENTITLED

## AN ACT

relating to the defense of certain suits against peace officers employed by an incorporated city or town or a special purpose district.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. An incorporated city or town or special purpose district shall provide a peace officer employed by it with legal counsel without cost to the peace officer, on the officer's request, to defend the officer against a suit for damages by a party other than a governmental entity if the claim involves an official act of the peace officer in the scope of the officer's authority. The city, town, or special purpose district may provide counsel already employed by it or may employ and pay private counsel to defend the officer against the claim. In this Act, "peace officer" has the meaning given in Article 2.12, Code of Criminal Procedure, 1965, as amended.

SECTION 2. If the municipality or district fails to provide counsel as required by Section 1 of this Act, the officer may recover from it the reasonable attorney's fees incurred in defending the suit if the trier of fact finds that the fees were incurred in defending a suit covered by Section 1 of this Act and determines that the officer is without fault or finds that the officer acted with a reasonable good faith belief that his actions were proper.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**SENATE CONCURRENT RESOLUTION 99**

Senator Snelson offered the following resolution:

**S.C.R. 99**, Requesting the House to return House Bill 1150 for further consideration.

The resolution was read.

On motion of Senator Snelson and by unanimous consent, the resolution was considered immediately and was adopted.

**CONFERENCE COMMITTEE ON HOUSE BILL 2096**

Senator Brooks called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2096** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2096** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brooks, Chairman; Harris, Traeger, Jones of Harris and Blake.

#### SENATE CONCURRENT RESOLUTION 98

Senator Schwartz offered the following resolution:

**S.C.R. 98**, Requesting the Senate Engrossing and Enrolling Clerk to make certain changes in **S.B. 666**.

The resolution was read.

On motion of Senator Schwartz and by unanimous consent, the resolution was considered immediately and was adopted.

#### SENATE BILL 1069 WITH HOUSE AMENDMENTS

Senator Ogg called **S.B. 1069** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Robnett

Amend S.B. No. 1069 by renumbering Section 2 as Section 3 and inserting a new Section 2 to read as follows:

SECTION 2. Section 61.013, Natural Resources Code, is amended to read as follows:

Sec. 61.013. PROHIBITION OF OBSTRUCTIONS. (a)

It is an offense against the public policy of this state for any person to create, erect, or construct any obstruction, barrier, or restraint that will interfere with the free and unrestricted right of the public, individually and collectively:

(1) to enter or to leave any state-owned beach bordering on the seaward shore of the Gulf of Mexico, or any larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public; or

(2) to use lawfully and legally any property abutting on or contiguous to the state-owned beach bordering on the seaward shore of the Gulf of Mexico on which the public has acquired a prescriptive right.

(b) A person who creates, erects, or constructs an obstruction, barrier, or restraint in violation of Subsection (a) of this section is liable to the state for a civil penalty of not less than \$50 nor more than \$1,000.

Amendment No. 2 - J. Wilson

Amend **S.B. 1069**, second printing, by striking Section 2 in its entirety and substituting the following:

"Section 61.013, Natural Resources Code, is amended to read as follows:

"Section 61.013. PROHIBITION OF OBSTRUCTIONS. (a) It is an offense against the public policy of this state for any person to create, erect, or construct any obstruction, barrier, or restraint that will interfere with the free and unrestricted right of the public, individually and collectively:

~~(1) to enter or to leave any public beach state owned beach bordering on the seaward shore of the Gulf of Mexico, or any larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public; or~~

~~(2) to use lawfully and legally any public beach or any larger area abutting on or contiguous to a public beach if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public the state owned beach bordering on the seaward shore of the Gulf of Mexico on which the public has acquired a prescriptive right.~~

~~(b) For purposes of this section, "public beach" shall mean any publicly or privately owned beach bordering on the Gulf of Mexico which extends inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or such larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time immemorial as recognized by law or custom.~~

~~(c) A person who creates, erects, or constructs an obstruction, barrier, or restraint in violation of Subsection (a) of this section is liable to the state for a civil penalty of not less than \$50 nor more than \$1,000.~~

The amendments were read.

Senator Ogg moved to concur in the House amendments.

The motion prevailed.

#### **SENATE BILL 1071 WITH HOUSE AMENDMENT**

Senator Ogg called **S.B. 1071** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - Wilson

Amend **S.B. 1071** by striking all of Section 17A and adding the following:

Section 17A "Public beach" shall mean any publicly or privately owned beach bordering on the Gulf of Mexico which extends inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or such larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time immemorial as recognized by law or custom.

The amendment was read.

Senator Ogg moved to concur in the House amendment.

The motion prevailed.

**SENATE BILL 1068 WITH HOUSE AMENDMENTS**

Senator Ogg called **S.B. 1068** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Committee Amendment No. 1 - Close**

Amend S.B. No. 1068, page 3, line 1, by striking "barren" and substituting in lieu thereof "barrier".

**Committee Amendment No. 2 - Close**

Amend **S.B. 1068**:

(1) By adding a new Section 5 to the bill as follows:

"Section 63.016. Ordinance Prevails Over Order

"(A) This subchapter does not limit the authority of a home rule city to establish a dune protection ordinance.

"(B) If a dune protection ordinance is adopted by a home rule city, such ordinance shall prevail over an order of the commissioner's court within the corporation limits of a home rule city. In cases of violation, prosecution may be maintained only under the ordinance."

(2) By renumbering previous Section 5 as Section 6.

(3) By adding a new Section 7 to the bill to read as follows:

"Add Section 63.058 to the Natural Resources Code as follows:

"Section 63.058. Permit Requirements

"(A) This subchapter does not limit the authority of a home rule city to establish permit requirements.

"(B) If permit requirements are adopted by a home rule city, such permit requirement shall prevail over an order of the commissioners court within the corporation limits of a home rule city. In cases of violation prosecution may be maintained only under the ordinance."

(4) By renumbering the previous Section 6 as Section 8.

(5) By renumbering the previous Section 7 as Section 9.

(6) By renumbering the previous Section 8 as Section 10.

**Amendment No. 3 - Uribe**

Amend **S.B. 1068**, Section 2 by adding:

"(d) No dune protection line may be established in the area governed by an incorporated city, town, or village unless it is approved in a resolution adopted by the governing body of the city, town, or village."

The amendments were read.

Senator Ogg moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 1068** before appointment.



There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ogg, Chairman; Longoria, Williams, Schwartz and Parker.

### SENATE BILL 482 WITH HOUSE AMENDMENTS

Senator Harris called **S.B. 482** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Bode

Substitute the following for S.B. No. 482:

#### A BILL TO BE ENTITLED AN ACT

relating to licensing and regulation of barbers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Articles 8401 and 8402, Revised Civil Statutes of Texas, 1925, as amended, are amended to read as follows:

Art. 8401. DEFINITIONS. In this chapter, unless the context requires a different definition,

(1) "barbering" includes any of the following practices or combinations of practices when performed upon persons above the seventh cervical vertebra for cosmetic purposes and not for the treatment of disease or physical or mental illness or deformity, and when performed for the public:

(A) shaving or trimming the beard;

(B) cutting the hair;

(C) any of the following treatments or combinations of treatments which are performed in the same place where (A) or (B) of this Section is practiced;

(i) giving facial or scalp massages;

(ii) ~~singcing~~ [Singeing], shampooing, dyeing, or tinting the hair;

(iii) applying cosmetic preparations, antiseptics, powders, oils, creams, clays, lotions, or tonics to the scalp, face, or neck; or

(iv) styling or processing the hair [~~of males only~~].

None of the above described acts and practices shall constitute "barbering" within the provisions of this Act when performed [~~upon females~~] by persons engaged in the practice of [~~hairdressing and~~] cosmetology and [~~who are~~] licensed by the Texas Cosmetology Commission [~~State Board of Hairdressers and Cosmetologists~~].

(2) "barber" means a person who:

(A) performs an act of barbering;

(B) professes to do barbering; or

(C) holds himself out to do barbering;

(3) "manager" means a person who controls or directs the business affairs of a barber shop or directs the work of a person employed in a barber shop or both;

(4) "barber shop" means a place where barbering is practiced except when said place is owned or operated in whole or in part by the State of Texas or any political subdivision thereof and except when said place is duly licensed as a barber school or college.

Art. 8402. (a) Every person, firm, or corporation owning, operating or managing a barber shop [~~or beauty parlor~~] shall register his full name and the

location of said shop with the State Board of Barber Examiners. Each ~~for parlor in a book to be kept in the office of the State Board of Health for that purpose, and every~~ owner, operator or manager of a barber shop ~~for beauty parlor~~ that is first opened for business hereafter shall within three ~~five~~ days after the opening of such shop submit an application to the barber board for a barber shop permit ~~for parlor register in like manner. In event of a change in the manager or location of any such shop or parlor, the manager of same shall call at or communicate by mail with said board within five days after such change takes place and inform said board thereof.~~

(b) A person licensed by the State Board of Barber Examiners as a Class A barber is subject to the inspection responsibilities of that Board. The Board may not adopt rules which would restrict or prohibit practice by a Class A barber in a facility regulated by the Texas Cosmetology Commission. ~~[In order that the public may fix responsibility for services, acts, or treatments performed by persons licensed by the State Board of Barber Examiners vis-a-vis those performed by persons licensed by the Texas Cosmetology Commission, to promote the efficient and orderly administration of laws regulating barbers and the practice of barbering and the laws regulating cosmetologists and the practice of cosmetology and to avoid confusion of the public as well as avoiding conflicts of jurisdiction between such board and commission which might impede effective administration or enforcement of the laws under their respective jurisdictions, from and after January 31, 1976, no person licensed by the barber board shall perform, offer, or attempt to perform any act, service, or treatment by authority of any such license on the premises of any beauty parlor, beauty salon, specialty salon, beauty culture school or college, or any location under the jurisdiction of the Texas Cosmetology Commission, and no person licensed by the cosmetology commission shall perform, offer, or attempt to perform any act, service, or treatment by authority of any such license on the premises of any barber shop, specialty shop, barber school or college, or any location under the jurisdiction of the State Board of Barber Examiners.]~~

(c) There shall at all times be prominently displayed in each shop and salon regulated under this Act, a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the regulatory board having jurisdiction over those individuals licensed under this Act and which shall contain a statement informing consumers that complaints against licensees can be directed to the regulatory board.

SECTION 2. Sections 26 and 26a, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 8407a, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 26. (a) The State Board of Barber Examiners is hereby created and shall consist of six members appointed by the governor with the advice and consent of the senate. The board shall be composed of the following: two members shall be Class A barbers actually and actively engaged in the practice of barbering for at least five years prior to being appointed and while serving as members ~~[a member]~~ of the board and who are not holders of a barber shop permit issued by the board; one member ~~[two members]~~ shall be a barber shop owner ~~[owners]~~ holding a permit issued by the board and who is ~~[are]~~ actively and actually engaged in the practice of barbering for at least five years prior to being appointed and while serving as a member of the board; one member ~~[two members]~~ shall be a person ~~[persons]~~ holding a permit from the board to conduct or operate a barber school or college; and two members shall be representatives of the general public who are not regulated under this Act and who do not have, other than as consumers, any financial interests in barbering. The ~~[provided, however, that the three members of the board serving at the time this Act takes~~

~~effect shall continue to serve for the terms of office to which they were appointed. Within 30 days after the effective date of this Act the governor shall appoint three additional members and at the time of appointment designate one appointee to serve for the same remaining period of time in office as each of the three members then serving so that hereafter the] terms of office shall be for six years with terms for two of the six board members expiring at the same time every two years[, and so as to at all times have on the board two working barbers, two shop owners working barbers, and two school owners as hereinabove provided]. All members appointed by the governor to fill vacancies in the board caused by death, resignation, or removal shall serve during the unexpired term of such member's predecessor. Before entering upon the duties of office, each member of the board shall take the constitutional oath of office and file it with the secretary of state. Members of the board may be removed from office for cause in the manner provided by the statutes of this state for public officials who are not subject to impeachment. In case of death, resignation, or removal, the vacancy of the unexpired term shall be filled by the governor in the same manner as other appointments.~~

(b) A person holding office as a member of the State Board of Barber Examiners on the effective date of this Act continues to hold the office for the term for which the member was originally appointed.

(c) The governor shall appoint two public members to fill the offices of the two incumbent members whose terms expire on May 19, 1981. The governor shall appoint a barber shop owner and a barber school owner to fill the offices of the incumbent members whose terms expire on May 19, 1983. The governor shall appoint two Class A barbers to fill the offices of the two incumbent members whose terms expire on May 19, 1985.

(d) The terms of office for the appointees who fill the offices of incumbent members whose terms expire May 19, 1981, May 19, 1983, and May 19, 1985, shall expire on January 31, 1987, January 31, 1989, and January 31, 1991, respectively.

(e) Appointments to the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(f) Each member of the board shall be present for at least one-half of the regularly scheduled board meetings held each year. Failure of a board member to meet this requirement automatically removes the member from the board and creates a vacancy on the board.

Sec. 26a. The State Board of Barber Examiners is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1991 [1979].

SECTION 3. Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 8407a, Vernon's Texas Civil Statutes), is amended by adding Sections 29A, 29B, 29C, and 29D to read as follows:

Sec. 29A. (a) The State Board of Barber Examiners shall keep an information file about each complaint filed with the board relating to licensees under this Act.

(b) If a written complaint is filed with the State Board of Barber Examiners relating to a licensee under this Act, the board, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved.

Sec. 29B. (a) An employee of the State Board of Barber Examiners whose duties include the administration of the board's functions under this Act may not:

(1) have, other than as a consumer, a financial interest in barbering;

(2) be an officer, employee, or paid consultant of a trade association in the barbering industry; or

(3) be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the barbering industry.

(b) A member of the State Board of Barber Examiners may not be:

(1) an officer, employee, or paid consultant of a trade association in the barbering industry;

(2) related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the barbering industry.

(c) An employee who violates this section is subject to dismissal. A board member who violates this section is subject to removal.

Sec. 29C. The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 29D. A general counsel employed by the board or a member of the board may not lobby for the board and may not engage in conduct for which the person is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes).

SECTION 4. Section 11, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. (a) The Board shall conduct examination of applicants for certificates of registration to practice as Class A registered barbers and of applicants to enter barber schools to determine their educational fitness, not less than four times each year, at such times and places as the Board may determine and designate. The examination of applicants for certificates of registration as Class A registered barbers shall include both a practical demonstration and a written and oral test, and shall embrace the subjects usually taught in schools of barbering approved by the Board.

(b) No examination shall be held at a barber school, college, or shop owned, managed, or operated by a member of the State Board of Barber Examiners.

SECTION 5. Section 10, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended by adding Subsections (d) and (e) to read as follows:

(d) Not later than the 30th day after the day on which a person completes an examination administered by the Board, the Board shall send to the person his examination results. If requested in writing by a person who fails the examination, the Board shall send to the person not later than the 30th day after the day on which the request is received by the Board an analysis of the person's performance on the examination.

(e) On a reciprocal basis with other states or countries, the Board may issue, without examination, a certificate, license, or permit to an applicant who has a corresponding certificate, license, or permit issued by another state or country having standards for the certificate, license, or permit that are at least substantially equivalent to those of this state and who pays the fee prescribed by this Act.

SECTION 6. Section 27, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 27. The State Board of Barber Examiners shall elect one of its members as president, and shall elect a secretary and such other employees, as may be necessary, to carry out the provisions of this Act and House Bill No. 104, Chapter 65, Acts of the Forty-first Legislature, First Called Session, as amended, and provide for the compensation of such secretary and other employees. Said Board shall maintain its office in the State Office Building in the City of Austin, Texas, and shall adopt rules and regulations for the transaction of the business herein provided for, including a common seal for the authentication of its orders, certificates and records. The secretary shall keep a record of all proceedings of the Board and shall be the custodian of all such records and shall receive and receipt for all money collected by the Board. All money so received shall be immediately deposited with the State Treasurer, who shall credit same to a special fund to be known as "State Board of Barber Examiners Fund," which money shall be drawn from said special fund upon claims made therefor by the Board to the Comptroller; and if found correct, to be approved by him and vouchers issued therefor, and countersigned and paid by the State Treasurer, which special fund is hereby appropriated for the purpose of carrying out all the provisions of this Act. Annually at the close of business on August 31st of each year, a complete report of the business transaction by the Board showing all receipts and disbursements shall be made by the Board to the Governor of the State of Texas. The state auditor shall audit the financial transactions of the Board at least once every two fiscal years.

The secretary shall give a surety bond, payable to the State of Texas in the sum of Five Thousand Dollars (\$5,000), conditioned for the faithful performances of his duties as secretary, to be approved by the Board and filed with the State Comptroller. A majority of the Board in meetings duly assembled may perform and exercise all the duties and powers devolving upon the Board.

The compensation of the members of the Board shall be a per diem as set by the General Appropriations Act, and in addition to the per diem provided for herein, they shall be entitled to traveling expenses in accordance with the appropriate provisions of the General Appropriations Act. Each Board member shall make out, under oath, a complete itemized statement of the number of days engaged and the amount of his expenses when presenting same for payment.

SECTION 7. Section 28, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 28. (a) The State Board of Health shall make, establish and promulgate reasonable sanitary rules and regulations for the conduct of barber shops and barber schools. The State Board of Barber Examiners, by and through the Health Department of the State of Texas, shall have authority, and it is made its duty to enter upon the premises of all barber shops, barber schools or any place where any of its licensees are practicing or performing any service, act or treatment by authority of any license issued by the board and inspect same at any time during business hours. A copy of such sanitary rules and regulations adopted by the Board of Health shall be furnished to the Secretary of the State Board of Barber Examiners who shall in turn forward to each barber, barber school or licensee of the board a copy of such rules and regulations. A copy of the sanitary rules and regulations promulgated and adopted by the State Board of Health shall be posted in barber shops and barber schools in this State. Subject only to the authority of the State Board of Health to make and promulgate reasonable rules and regulations as to sanitation, the State Board of Barber Examiners shall have full authority and power to make and enforce all rules and regulations necessary for the performance of its duties, to establish standards of conduct and ethics for all persons licensed or practicing under the provisions of

this Act, and to regulate the practice and teaching of barbering in all of its particulars in keeping with the purposes and intent of this Act or to insure strict compliance with and enforcement of this Act.

(b) If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the board receives the committees' statements.

(c) The violation by any licensee, permittee, or certificate holder of the board of any provisions of this Act or any rule, regulation, or order of the board shall be sufficient reason or ground to cancel, suspend, or revoke any license, certificate, permit, or authority issued under this Act. In addition to any other action, proceeding, or remedy authorized by law, the board shall have the authority to institute any action in its own name to enjoin any violation of any provision of this Act or rule or regulation of the board, and, in order for the board to sustain such action, it shall not be necessary to allege or prove, either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation thereof. Either party to such action may appeal to the appellate court having jurisdiction of such cause. The board shall not be required to give any appeal bond in any cause arising under this Act. The attorney general shall represent the board in all actions and proceedings to enforce the provisions of this Act.

SECTION 8. This Act takes effect on September 1, 1979.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 2 - Ceverha

Amend CSSB 482 as follows:

- (1) on page 1, line 4, strike the "s" from the word "Articles" and then strike the phrase "8401 and"; and
- (2) on page 1, line 5, substitute the word "is" for the word "are"; and
- (3) strike lines 6 through 24 on page 1 and lines 1 through 17 on page 2; and
- (4) add a new section after section 7 and renumber the following sections accordingly. The new section reads as follows:  
"SECTION . Article 8401, Revised Civil Statutes of Texas, 1925, as amended, is repealed.

The amendments were read.

Senator Harris moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 482** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chairman; Moore, Santiesteban, Creighton and Longoria.

(Senator Meier in Chair)

### SENATE BILL 384 WITH HOUSE AMENDMENTS

Senator Harris called **S.B. 384** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Jackson

Substitute the following for S.B. No. 384:

#### A BILL TO BE ENTITLED AN ACT

relating to licensing and regulation of cosmetologists; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 8451a, Vernon's Texas Civil Statutes), is revised to read as follows:

Sec. 1. DEFINITIONS. As used in this Act:

(1) "Person" means any individual, association, firm, corporation, partnership, or organization.

(2) "Commission" means the Texas Cosmetology Commission.

(3) "Cosmetology" means the performing or doing, or offering or attempting to do or perform for compensation, any of the following acts, services, works, treatments, or undertakings:

(A) arranging, beautifying, bleaching, tinting, cleansing, coloring, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, waving, or otherwise treating the hair as primary services, treatments, or undertaking by any means or method, including any bobbing, clipping, cutting, or trimming of the hair as a necessary incident preparatory or ancillary to such primary services; cutting the hair as a primary service, treatment, or undertaking and not as a necessary incident preparatory or ancillary to those primary services enumerated in this subdivision, or primarily engaging in the occupation of cutting hair or practicing primarily as a haircutter by cutting hair as a separate and independent service, treatment, or undertaking for which haircut a charge is made, separate and apart from any other service, treatment, or undertaking, directly or indirectly, or in any manner;

(B) cleansing, stimulating, or massaging the scalp, face, neck, or arms by means of the hands, devices, apparatus, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams; beautifying the face, neck, or arms by use of cosmetic preparations, antiseptics, tonics, lotions, powders, oils, clays, creams, or appliances;

(C) removing superfluous hair from the body by the use of depilatories or mechanical tweezers;

(D)

(E) servicing a wig or artificial hairpiece either on a human head or on a block subsequent to the initial retail sale and servicing by any of the practices enumerated in Paragraph (A) of this subdivision;

- (F) administering facial treatments;
- (G) hair weaving; or
- (H) shampooing and conditioning hair.

(4) "Public school" includes a public high school, public junior college, or any other nonprofit tax-exempt institution conducting a cosmetology program.

Sec. 2. TEXAS COSMETOLOGY COMMISSION. (a) The Texas Cosmetology Commission is created. The commission shall be composed of one member holding a valid beauty shop license who has no direct or indirect affiliation with or interest, financial or otherwise, in a private beauty culture school; one member holding a valid private beauty culture school license who has no direct or indirect affiliation with or interest, financial or otherwise, in a beauty shop; two members holding valid operator licenses who have no direct or indirect affiliation with or interest, financial or otherwise, in a private beauty culture school or beauty shop; and two members of the general public who are not licensees under this Act and who have no direct or indirect affiliation with or interest, financial or otherwise, in any facet of the beauty industry. The associate commissioner for occupational education and technology of the Central Education Agency or his authorized representative shall as part of his duties serve as an ex officio member of the commission with voting privileges. Members shall be appointed without consideration of race, color, religion, sex, or national origin.

(b) To qualify as a member, a person must be a citizen of the United States and a resident of Texas at least 25 years of age, must be actively engaged in the area that the person represents for a period of five years immediately preceding appointment.

(c) The members of the commission shall be appointed by the governor with the advice and consent of the senate. Members of the commission hold office for staggered terms of six years, with two members' terms expiring on December 31 of each odd-numbered year. No person may serve more than two consecutive terms.

(d) Each appointee to the commission shall qualify by taking the constitutional oath of office within 15 days from the date of his appointment. On presentation of the oath, the secretary of state shall issue commissions to appointees as evidence of their authority to act as members of the commission.

(e) Each member of the commission shall be present for at least one-half of the regularly scheduled commission meetings held each year. Failure of a commission member to meet this requirement automatically removes the member from the commission and creates a vacancy on the commission.

(f) In the event of death, resignation, or removal of any member, the vacancy of the unexpired term shall be filled by the governor in the same manner as other appointments.

(g) The Texas Cosmetology Commission is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by the Act, the commission is abolished and this Act expires effective September 1, 1991.

(h) The commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 3. COMMISSION ORGANIZATION AND MEETINGS. (a) The commission shall elect from its members for a term of two years a chairman and may appoint committees that it considers necessary to carry out its duties.

(b) The commission shall meet at least once each year. The commission may meet at other times at the call of the chairman or as provided by commission rule.



(c) The quorum for any meeting of the commission is four members. No action by the commission or its members has any effect unless a quorum is present.

Sec. 4. POWERS AND DUTIES OF THE COMMISSION. (a) The commission may issue rules consistent with this Act after a public hearing in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the commission statements opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the commission receives the committees' statements.

(b) The commission shall prescribe the minimum curricula of the subjects and hours of each to be taught by beauty culture schools.

(c) The commission shall prescribe the method and content of the examinations administered under this Act. The examination shall include practical examinations as well as theory tests relating to the subject matter established as curricula by the commission.

(d) The commission shall establish sanitation rules designed to prevent the spread of infectious or contagious diseases.

Sec. 5. COMPENSATION. (a) Members of the commission are entitled to receive \$25 a day and reimbursement for actual travel expenses incurred in performing the duties of their office. Per diem compensation may not exceed 30 days in any fiscal year for each member.

(b) The compensation of other employees of the commission is as set by the General Appropriations Act.

Sec. 6. EXECUTIVE DIRECTOR; STAFF. (a) The commission may employ an executive director who is the executive head of the commission and performs its administrative duties.

(b) The executive director may employ staff members necessary for administering the functions of the commission. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended, (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to the Commission or serve as a member of the Commission.

(c) The commission may employ directors at its discretion.

Sec. 7. CONFLICT OF INTEREST. (a) An employee of the commission whose duties include the administration of the commission's functions under this Act may not:

(1) have, other than as a consumer, a financial interest in the cosmetology industry;

(2) be an officer, employee, or paid consultant of a trade association in the cosmetology industry; or

(3) be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the cosmetology industry.

(b) A member of the commission may not be:

(1) an officer, employee, or paid consultant of a trade association in the cosmetology industry; or

(2) related within the second degree of affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the cosmetology industry.

(c) An employee who violates this section is subject to dismissal. A member who violates this section is subject to removal.

Sec. 8. DISPOSITION OF FUNDS. (a) The executive director shall remit, on or before the 10th day of each month, to the state treasurer all fees collected under this Act during the preceding month for deposit in the General Revenue Fund.

(b) On August 31 of each year, the commission shall file with the comptroller its annual report in a form required by the comptroller.

(c) Funds for the administration of this Act are to be provided by the General Appropriations Act.

Sec. 9. PROHIBITED ACTS. (a) A person may not perform or attempt to perform any practice of cosmetology without first obtaining a license or certificate to perform that practice.

(b) A person may not conduct or operate a beauty shop, beauty culture school, specialty shop, or any other place of business in which the practice of cosmetology is taught or practiced without first obtaining a license.

(c) A person may not instruct in the art of cosmetology unless he holds an instructor license from this state and the instruction is done in a private beauty culture school or public school cosmetology program.

Sec. 10. OPERATOR LICENSE. (a) A person holding an operator license may perform any practice of cosmetology defined in Subdivision (3), Section 1, of this Act.

(b) An applicant for an operator license must be at least 16 years of age, have completed the seventh grade or its equivalent, and have completed 1,500 hours of instruction in a licensed beauty culture school or 1,000 hours of instruction in beauty culture courses and 500 hours of related high school courses prescribed by the commission in a public school vocational program.

(c) The application must be made on a form prescribed by the commission and must be filed at least 10 days before the date set for the examination.

(d) The applicant is entitled to an operator license if he possesses the qualifications enumerated in Subsection (b) of this section, satisfactorily completes the examination, pays a \$15 license fee, and has not committed an act that constitutes a ground for denial of a license.

Sec. 12. INSTRUCTOR LICENSE. (a) A person holding an instructor license may perform any practice of cosmetology and may instruct a person in any practice of cosmetology as defined by this Act.

(b) An applicant for an instructor license must be at least 18 years of age, have completed the 12th grade or its equivalent, have a valid operator license, and have completed a six-month course consisting of 750 hours of instruction in cosmetology courses and methods of teaching in a licensed beauty culture school or in a vocational training program of a publicly financed postsecondary institution or at least three years of verifiable experience as an operator under a license from the Texas Cosmetology Commission.

(c) The application must be on a form prescribed by the commission and must be filed at least 10 days before the date set for the examination.

(d) The applicant is entitled to an instructor license if he possesses qualifications enumerated in Subsection (b) of this section, satisfactorily completes the examination, pays a \$35 license fee, and has not committed an act that constitutes a ground for denial of a license.

Sec. 13. SPECIALTY CERTIFICATE. (a) A person holding a specialty certificate may perform only the practice of cosmetology as defined in Paragraphs (E), (F), (G), or (H) of Subdivision (3) of Section 1 of this Act.

(b) An applicant for a specialty certificate must be at least 16 years of age, have completed the seventh grade or its equivalent, and have the necessary

requisites as determined by the commission in the particular specialty in which certification is sought.

(c) The application must be on a form prescribed by the commission and must be filed at least 10 days before the date set for examination.

(d) The applicant is entitled to a specialty certificate if he possesses the qualifications enumerated in Subsection (b) of this section, satisfactorily completes the examination, pays a \$15 certificate fee, and has not committed an act that constitutes a ground for denial of a certificate.

(e) Subsection (a) of this section does not apply to an individual who has an instructor license or operator license issued by the commission.

Sec. 14. GRANDFATHER CLAUSE. (a) On the effective date of this Act any person holding a specialty license issued by the commission may, before the expiration date of that license, receive an equivalent certificate by complying with the following guidelines:

(1) sending the renewal portion of the specialty license to the commission along with a valid health certificate; and

(2) paying a one time \$15 certification fee.

(b) On the effective date of this Act, any person holding a wig instructor or wig school license may continue to renew that license indefinitely by paying a \$35 or \$55 fee, respectively, every two years.

Sec. 15. TEMPORARY LICENSE. (a) A person holding a temporary license may perform any practice of cosmetology for which he holds a valid license in another state or nation.

(b) A temporary license shall be issued on submission of an application form prescribed by the commission and payment of a \$25 temporary license fee if the applicant meets the requirements of Subsection (a) of this section.

(c) A temporary license expires on the 60th day after the date of issue and may not be renewed.

(d) A person is not required to hold a temporary license to engage in the practice of cosmetology for educational or demonstration purposes at seminars, trade shows, or conventions.

Sec. 16. DUPLICATE LICENSE OR CERTIFICATE. A duplicate license or certificate shall be issued upon application on a form prescribed by the commission and on the payment of a \$5 fee.

Sec. 17. RECIPROCAL CERTIFICATES OR LICENSES. (a) Any person who holds a valid license or certificate from another state or nation that has substantially equivalent standards or work experience may apply for a license or certificate to perform the same practice in this state.

(b) The applicant shall submit an application on a form prescribed by the commission and pay a \$25 fee.

(c) A license or certificate granted under this section allows the holder to engage in the practice of cosmetology stated on the front of the license or certificate. The holder of this license or certificate is subject to the renewal procedures and fees provided in this Act for the practice of cosmetology for which he is licensed.

Sec. 18. STUDENT PERMITS. (a) Any student enrolled in a school of cosmetology in this state shall be required to have a permit stating the student's name and the name of the school he is attending. The permit shall be displayed in a reasonable manner at the school.

(b) A student permit shall be issued on submission of an application form prescribed by the commission and payment of a \$10 fee which must accompany the application.

(c) The cost of the permit shall also include the examination and transcript fee and may not be refunded.

Sec. 19. **BEAUTY SHOP LICENSE.** (a) A person holding a beauty shop license may maintain an establishment in which any practice of cosmetology is performed.

(b) An applicant for a beauty shop license must submit an application on a form prescribed by the commission. The application must contain proof of the particular requisites for a beauty shop as established by the commission and must be verified by the applicant.

(c) The applicant is entitled to a beauty shop license if the application shows compliance with the rules of the commission, a \$25 license fee is paid, and he has not committed an act that constitutes a ground for denial of a license.

(d) A person licensed by the commission as a cosmetologist is subject to the inspection responsibilities of that Commission. The Commission shall not adopt rules or practices which restrict or prohibit a cosmetologist from practicing in a facility regulated by the State Board of Barber Examiners.

Sec. 20. **SPECIALTY SHOP LICENSE.** (a) A person holding a specialty shop license may maintain an establishment in which only the practice of cosmetology as defined in Paragraphs (D), (E), (F), or (G) of Subdivision (3) of Section 1 of this Act is performed.

(b) An applicant for a specialty shop license must submit an application on a form prescribed by the commission. The application must contain proof of the particular requisites for a specialty shop as established by the commission and must be verified by the applicant.

(c) The applicant is entitled to a specialty shop license if the application shows compliance with the rules and regulations of the commission, a \$25 license fee is paid, and he has not committed an act that constitutes a ground for denial of a license.

(d) Subsection (b) of this section does not apply to a shop operated under a beauty shop license issued by the commission.

Sec. 21. **PRIVATE BEAUTY CULTURE SCHOOL LICENSE.** (a) A person holding a private beauty culture school license may maintain an establishment in which any practice of cosmetology is taught.

(b) An applicant for a private beauty culture school license must submit an application on a form prescribed by the commission. Each application must be verified by the applicant and must contain:

(1) a detailed floor plan of the school building divided into three separate areas, one for instruction in theory, one for practice work of senior students, and one for practice work of juniors; and

(2) a statement that the building is fireproof and of permanent type construction, contains a minimum of 3,500 square feet of floor space, with separate restrooms for male and female students, and contains or will contain before classes commence the equipment established by rule of the commission as sufficient to properly instruct a minimum of 50 students.

(c) Each applicant shall furnish a good and sufficient surety bond payable to the State of Texas in the amount of \$5,000. The bond must be conditioned to refund any unused portion of the tuition paid if the school closes or ceases operation before the courses of instruction have been completed.

(d) A student is entitled to a pro rata refund of tuition if the student becomes physically unable to complete the courses of instruction.

(e) Each application must be accompanied by payment of a \$250 license fee.

(f) The facilities of each applicant shall be inspected. The applicant is entitled to a private beauty culture school license if the inspection shows that this Act and the rules of the commission have been met and the applicant has not committed an act that constitutes a ground for denial of a license.

Sec. 22. PRIVATE BEAUTY CULTURE SCHOOLS. A private beauty culture school shall:

- (1) maintain a sanitary establishment;
- (2) maintain on its staff and on duty during business hours not less than two full-time instructors licensed under this Act, except that one instructor will be sufficient whenever the student enrollment drops below 15;
- (3) maintain a daily record of attendance of students;
- (4) establish regular class and instruction hours and grades, and hold examinations before issuing diplomas;
- (5) require a school term of not less than nine months and not less than 1,500 hours instruction for a complete course in cosmetology;
- (6) require a school term of not less than four weeks and not less than 150 hours instruction for a complete course in manicuring;
- (7) require no student to work or be instructed or receive credit for more than eight hours of instruction in any one day or for more than six days in any one calendar week;
- (8) maintain a copy of its curriculum in a conspicuous place and verify that this curriculum is being followed as to subject matter being taught; and
- (9) submit to the executive director the name of each student within 10 days after enrollment in the school and notify the executive director of the withdrawal or graduation of a student within 10 days of the withdrawal or graduation.

Sec. 23. TRANSFER OF HOURS OF INSTRUCTION. Any student of a private beauty culture school or a vocational cosmetology program in a public school may transfer completed hours of instruction to a private beauty culture school or vocational cosmetology program in a public school in this state. A transcript showing the number and courses of completed hours certified by the school in which the instruction was given must be submitted to the executive director. On evaluation and approval, the executive director shall certify in writing to the student and to the school to which the student desires a transfer that the stated hours and courses have been successfully completed and that the student is not required to repeat the instructions.

Sec. 24. STUDENT WORK ON PATRONS. (a) No school may receive compensation for work done by any student who has not completed 10 percent of the required number of hours for a license as provided by this Act.

(b) Each school shall maintain in a conspicuous place a list of the names and identifying pictures of the students who are enrolled in cosmetology courses.

(c) Any school violating this section is subject to revocation or suspension of its license.

Sec. 25. PRIVATE BEAUTY CULTURE SCHOOLS AND BEAUTY SHOPS. Private beauty culture schools, beauty shops, or specialty shops may not be conducted in the same quarters or on the same premises unless they are separated by walls of permanent construction with no openings in them.

Sec. 26. EMPLOYMENT OF LICENSEES. (a) A beauty culture school may not employ a person holding an operator, manicurist, or specialty certificate solely to perform the practices of cosmetology for which the person is licensed or employ a person holding an instructor license to perform any acts or practices of cosmetology.

(b) A licensee may not operate a beauty salon unless it is at all times under the direct supervision of a person holding an operator license or instructor license. A licensee or certificate holder may not operate a specialty shop unless it is at all times under the direct supervision of an operator, instructor, or specialty certificate holder, or in the case of a manicuring specialty salon, under the supervision of a licensed manicurist.

(c) A person holding a beauty shop or specialty shop license may not employ a person as an operator, manicurist, or specialist who has not first obtained a license or certificate under this Act or who has not first obtained a license or certificate under the law regulating barbers.

Sec. 27. **DISPLAY OF LICENSE.** Every holder of a license or certificate issued under this Act shall display the license or certificate in his place of business or employment.

Sec. 28. **CONSUMER INFORMATION.** There shall at all times be prominently displayed in each shop and salon regulated under this Act, a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the regulatory board having jurisdiction over those individuals licensed under this Act and which shall contain a statement informing consumers that complaints against licensees can be directed to the regulatory board.

Sec. 29. **RIGHT OF ACCESS.** The commission, an inspector, or any duly authorized representative of the commission may enter the premises of any licensee at any time during normal business hours and in such manner as not to interfere with the conduct or operation of the business or school to determine whether or not the licensee is in compliance with this Act and the rules of the commission.

Sec. 30. **EXAMINATIONS.** Examinations shall be conducted beginning the first of each month unless it is a legal holiday, in which case the examination shall begin on the following day. The site of the examinations shall be announced at least six months prior to the administration date. Examinations may not be conducted in the schools of commission members. Not later than the 30th day after the day on which a person completes an examination administered by the commission, the commission shall send to the person his examination results. If requested in writing by a person who fails the examination, the commission shall send to the person not later than the 60th day after the day on which the request is received by the commission an analysis of the person's performance on the examination.

Sec. 31. **HEALTH CERTIFICATE.** (a) Every applicant for an original or renewal operator, instructor license, reciprocal license, or specialty certificate must submit a certificate of health signed by a licensed physician, showing that the applicant is free from any contagious disease as determined by an examination that included a tuberculosis test.

(b) Any physician who signs a health certificate required by Subsection (a) of this section showing the applicant to be free from any contagious disease without having made the physical examination is guilty of a misdemeanor, and on conviction may be fined not less than \$50 or more than \$200.

Sec. 32. **INFECTIOUS AND CONTAGIOUS DISEASES.** (a) A person holding an operator, instructor, or specialty certificate may not perform any practice of cosmetology knowing that he is suffering from an infectious or contagious disease.

(b) A person holding a beauty or specialty shop license or a beauty culture school license may not employ any person to perform any practice or practices of cosmetology knowing that the licensee is suffering from an infectious or contagious disease.

Sec. 33. **RENEWAL OF LICENSES AND CERTIFICATES.** (a) Except as provided by Subsection (d) of this section, all licenses and certificates issued under this Act, except temporary and private beauty culture school licenses, expire two years from the date of issue.

(b) Applications for renewal of a specialty certificate must be accompanied by a current health certificate.

(c) A renewal license shall be issued on payment of the renewal fee as established by this Act.

(d) All licenses and certificates issued by the commission may be prorated for the number of months the license or certificate will be valid.

(e) A license that has been expired for less than five years may be renewed. A renewal license shall be issued on submission of a completed application form prescribed by the commission and payment of the renewal fee established by this Act for each year the license was expired, plus a \$5 delinquency fee.

(f) An applicant for renewal of a license that has been expired for more than five years shall be issued a license on submission of an application, payment of the examination fee, satisfactory completion of the examination, and payment of a \$25 reinstatement fee.

Sec. 34. RENEWAL FEES. Renewal fees under this Act are:

- |                                      |                     |
|--------------------------------------|---------------------|
| (1) Operator license                 | \$ 15;              |
| (2) Instructor license               | \$ 35;              |
| (4) Private beauty school license    | \$150 per year; and |
| (5) Beauty or specialty shop license | \$ 25.              |

Sec. 35. VIOLATION. (a) If an inspector discovers a violation of this Act or of a rule established by the commission, he shall give written notice of the violation on a form prescribed by the commission to the violator, and if the violation is not corrected in 10 days from the date of notice, the inspector shall file a complaint with the executive director.

(b) If a licensee commits three or more violations of a similar nature within any 12-month period, a suit for injunction and proceedings for suspension or revocation of the license shall be instituted.

Sec. 36. GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION OF A PERMIT. A license or certificate may be denied, or after a hearing, suspended or revoked if the applicant or licensee has:

- (1) secured a license or certificate by fraud or deceit;
- (2) violated or conspired to violate this Act or a rule issued under this Act;
- (3) knowingly made false or misleading statements in any advertising of the licensee's services;
- (4) advertised, practiced, or attempted to practice under the name or trade name of another licensee under this Act; or
- (5) engaged in gross malpractice in practicing cosmetology.

Sec. 37. APPLICATION OF THE ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT. (a) A person whose application for a license, certificate, or permit is denied is entitled to a hearing before the commission in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), if the person submits to the commission a written request for a hearing.

(b) Proceedings for suspension or revocation of a license or certificate and appeals from these proceedings are governed by the Administrative Procedure and Texas Register Act, as amended.

Sec. 38. INJUNCTION. The commission may sue in district court to enjoin or restrain a person from violating any section of this Act or the commission rules.

Sec. 39. EXEMPTIONS. The following are exempt from the provisions of this Act:

- (1) service in the case of emergency;

(2) persons licensed in this state to practice medicine, surgery, dentistry, podiatry, osteopathy, chiropractic, or nurses;

(3) a person engaged in the business of or receiving compensation for makeup applications only; and

(4) a person who acts as a barber regulated by the law of this state if the person does not hold himself out as a cosmetologist.

Sec. 40. **PENALTIES.** (a) Any person who violates this Act, except Section 30 of this Act, is guilty of a misdemeanor, and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

(b) A licensee or certificate holder who violates this Act is guilty of a misdemeanor and on conviction is punishable under Subsection (a) of this section and is subject to the revocation or suspension of his license or certificate.

Sec. 41. **COMPLAINTS.** (a) The commission shall keep an information file about each complaint filed with the commission relating to a cosmetologist or cosmetology establishment.

(b) If a written complaint is filed with the commission relating to a cosmetologist or cosmetology establishment, the commission, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved.

**SECTION 2.** A person holding office as a member of the Texas Cosmetology Commission on the effective date of this Act continues to hold office for the term for which the member was originally appointed.

**“SECTION 3.** Any law, section, or provision relating to creation, powers, duties, or functions of the Texas Cosmetology Commission which is not hereby expressly re-enacted is hereby repealed.”

**SECTION 4.** This Act takes effect September 1, 1979.

**SECTION 5.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

**Amendment No. 2 - Lewis**

Amend **C.S.S.B. 384** as follows:

1) On page 2, line 14, strike “(D)”; and,

2) On page 2, line 15, substitute “(D)” for “(E)” and reletter all following subsections accordingly; and,

3) On page 8, line 21, after the word “Sec.”, strike the number “12” and substitute the number “11” and renumber all following sections accordingly.

**Amendment No. 3 - Bode**

To amend **C.S.S.B. 384**, Section 1, on page 8 by adding after line 20 the following:

**“Section 11. MANICURIST LICENSE.** (a) A person holding a manicurist license may perform only the practice of cosmetology defined in Subdivision (D), Subsection (3), Section 1 of this Act.

**“(b)** An applicant for a manicurist license must be at least 16 years of age, have completed the seventh grade or its equivalent, and have completed 150 hours of instruction in manicuring.

**“(c)** The application must be made on a form prescribed by the commission and must be filed at least 10 days before the date set for the examination.

**“(d)** The applicant is entitled to a manicurist license if he possesses the qualifications enumerated in Subsection (b) of this section, satisfactorily



completes the examination, pays a \$10 license fee, and has not committed an act that constitutes a ground for denial of a license.

The amendments were read.

Senator Harris moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 384** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chairman; Longoria, Creighton, Moore and Santiesteban.

#### **SENATE BILL 582 WITH HOUSE AMENDMENT**

Senator Farabee called **S.B. 582** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1 - Davis

Amend S.B. No. 582 by striking all below the enacting clause and substituting the following:

##### **ARTICLE 1**

**SECTION 1.** Subsection A, Section 4, Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

"A. Except as provided in Subsection D of this Section, in every city where the local sales and use tax has been adopted pursuant to the provisions of this Act, there is hereby imposed an excise tax on the storage, use, or other consumption within such city of tangible personal property purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the local sales and use tax for storage, use or other consumption in such city at the rate of one percent (1%) of the sales price of the property or, in the case of leases or rentals, of said lease or rental price. Except as provided in Subsection E of this Section, the local use tax is not owed to and may not be collected by, for, or in behalf of a city if no excise tax on the storage, use, or other consumption of an item of tangible personal property is owed to or collected by the State under the Limited Sales, Excise and Use Tax Act, Chapter 20, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, or if the tangible personal property is first stored, used, or consumed within a city or area that has not adopted the local sales or use tax; ~~provided, that if no excise tax on the storage, use or other consumption of any article or item of tangible personal property is owed to or collected by the State of Texas under the State Limited Sales, Excise and Use Tax Act, then the tax imposed by this Section shall not be owed to and shall not be collected by, for or in behalf of~~

~~such city for storage or other consumption of such article or item of tangible personal property within such city].”~~

SECTION 2. Section 4, Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes), is amended by adding Subsections E and F to read as follows:

“E. If a sale of tangible personal property is consummated within the State but not within a city that has adopted the taxes imposed by this Act and the tangible personal property is shipped directly into or brought by the purchaser or lessee directly into a city that has adopted the taxes imposed by this Act, the tangible personal property is subject to the local use tax imposed by the city under Subsection A of this Section. The use is considered consummated at the location where the item is first stored, used, or otherwise consumed after the intrastate transit has ceased.

“F. If the tangible personal property is shipped from outside this State to a customer within this State, the tangible personal property is subject to the use tax imposed by Subsection A of this Section and not the sales tax imposed by Subsection B, Section 2 of this Act. The use is consummated at the first point in this State where the property is stored, used, or otherwise consumed after interstate transit has ceased. Tangible personal property delivered to a point in this State is presumed to be for storage, use, or other consumption at that point until the contrary is established.”

SECTION 3. Subsections A and B, Section 6, Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes), are amended to read as follows:

“A. All applicable provisions contained in Chapters [Chapter] 1 and 20 of Title 122A shall apply to the collection of the tax imposed by this Act, except as modified in this Act.

“B. (1) For the purposes of the local sales and use tax, ‘place of business of the retailer’ means an established outlet, office, or location operated by the retailer, his agent, or employee for the purpose of receiving orders for taxable items. The term ‘place of business of the retailer’ includes any location at which three or more orders are received by the retailer in a calendar year. A warehouse, storage yard, or manufacturing plant may not be considered a ‘place of business of the retailer’ unless three or more orders are received by the retailer in a calendar year at such warehouse, storage yard, or manufacturing plant. Each ‘place of business of the retailer’ must have a permit issued by the Comptroller in accordance with Article 20.021, Title 122A. For the purpose of determining the proper local sales tax imposed by this Act, a retail sale, lease, or rental is consummated as provided in Paragraphs (a), (b), (c), and (d) of this subdivision, regardless of where transfer of title or possession or segregation in contemplation of transfer of title or possession of the taxable item occurs unless the tangible personal property sold, leased, or rented is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination.

“(a) If a retailer has only one place of business within this State, all retail sales, leases, and rentals of the retailer are consummated at that place of business, except as provided in Subsection 2(d) of this Section.

“(b) If a retailer has more than one place of business in this State, the retailer’s place of business where the purchaser or lessee takes possession of and removes an item of tangible personal property is the place of business where the sale, lease, or rental of that item is consummated. If, however, the retailer ships or delivers the tangible personal property to a point designated by the purchaser or lessee, then the retailer’s place of business from which the tangible personal property is shipped or delivered to the purchaser or lessee is the place of business where the sale, lease, or rental is consummated.

"(c) If neither possession of tangible personal property is taken at nor shipment or delivery of the tangible personal property is made from the retailer's place of business within this State, the sale, lease, or rental is consummated at the retailer's place of business within the State where the order is received or, if the order is not received at a place of business of the retailer, at the place of business from which the retailer's salesman who took the order operates.

"(d) When transfer of possession of tangible personal property occurs at or shipment or delivery originates from a location within the State other than a place of business of the retailer, the sale, lease, or rental is consummated at the location within this State to which the tangible personal property is shipped or delivered or at which possession is taken by the customer when:

"(i) the retailer is an itinerant vendor and has no place of business, or

"(ii) the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order operates is outside the State, or

"(iii) the purchaser places the order directly with the retailer's supplier and the property is shipped or delivered directly to the purchaser by the supplier.

"(e) The sale of natural gas or electricity is consummated at the point of delivery to the consumer.

"(2) For the purpose of the excise tax imposed by this Act on any retailer holding tangible personal property purchased on a resale certificate and which property becomes subject to the excise tax by reason of use or other consumption of the property, the use or other consumption of the property is consummated at the place where the property is stored or kept at the time of or just prior to its use or consumption, unless the tangible personal property is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination.

"(3) For the purpose of determining the proper local use tax imposed by this Act, a holder of a direct payment permit issued by the Comptroller under Section (K) of Article 20.05, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, who becomes liable for local use tax by reason of storage, use, or other consumption of taxable items purchased in this State under a direct payment exemption certificate, shall allocate the tax to the city in which the taxable item was first removed from the permit holder's storage, or if not stored, the place at which the items are first used or consumed by the permit holder after transportation. As used in this paragraph, storage, use, or other consumption may not include a temporary delay or interruption necessary and incident to the transportation or further fabrication, processing, or assembling of taxable items within this State for delivery to the permit holder. A charge for processing, fabrication, or further assembly in a city that has adopted the local use tax shall be subject to the local use tax. If a taxable item is first stored, used, or consumed within a city that has not adopted the tax imposed by this Act or outside of a city, no local use tax is due.

~~"[(1) For the purposes of the local sales tax imposed by this Act, all retail sales, leases and rentals, except sales of natural gas or electricity, are consummated at the place of business of the retailer unless the tangible personal property sold, leased, or rented is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination or the taxable service is to be performed at an out-of-state location. In the event the retailer has no permanent place of business in the State, the place or places at which the retail sales, leases, or rentals are consummated for the purposes of the tax imposed by this Act shall be determined under rules and regulations prescribed by the Comptroller. If the retailer has more than one place of business in the State, the place or places at which retail sales, leases, and~~

~~rentals are consummated shall be the retailer's place or places where the purchaser or lessee takes possession and removes from the retailer's premises the articles of tangible personal property, or if the retailer delivers the tangible personal property to a point designated by the purchaser or lessee, then the sales, leases, or rentals are consummated at the retailer's place or places of business from which tangible personal property is delivered to the purchaser or lessee. The sale of natural gas or electricity is consummated at the point of delivery to the consumer.~~

~~"[(2) For the purpose of the excise tax imposed by this Act on any retailer holding tangible personal property purchased on a Resale Certificate, and which property becomes subject to such excise tax by reason of use or other consumption of such property, such use or other consumption of such property is consummated at the place of business of the retailer, unless the tangible personal property is delivered by the retailer or his agent to an out of state destination or to a common carrier for delivery to an out of state destination. If the retailer has more than one place of business in this State, the place at which such use or consumption is consummated shall be the last place of business of such retailer where such property is stored or kept at the time of or just prior to its use or consumption.~~

~~"[(3) For the purpose of the taxes imposed by this Act, any tangible personal property owned by a consumer to whom a direct payment permit has been issued by the Comptroller under the provisions of Paragraph (K) of Article 20.05, Chapter 20, Title 122A, which property becomes subject to the taxes imposed by this Act by reason of use or consumption of such property in this State, such use or other consumption of such property is consummated at the last place of business in this State where such property is used or where such property is stored or kept at the time of or just prior to its use or consumption in this State.]"~~

SECTION 4. Subparagraph (1), Paragraph (c), Subsection (B), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

"(1) In every authority area where the tax authorized by this Act has been adopted pursuant to the provisions of this Act, there is hereby imposed an excise tax on the storage, use or other consumption within such authority area of taxable items purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the sales and use tax for storage, use or other consumption in such authority area at the same rate as the sales tax levied under this Act of the sales price of the taxable item or, in the case of leases or rentals, of said lease or rental price. Except as provided in Subparagraph (4) of this paragraph, the use tax imposed by this section is not owed to and may not be collected by, for, or in behalf of an authority if no excise tax on the storage, use, or other consumption of an item of tangible personal property is owed to or collected by the state under the Limited Sales, Excise and Use Tax Act, Chapter 20, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, or if the tangible personal property is first stored, used, or consumed within an authority or area that has not adopted the sales and use tax imposed by this section[; provided, that if no excise tax on the storage, use or other consumption of any taxable item is owed to or collected by the state under the Limited Sales, Excise and Use Tax Act, then the tax imposed by this section shall not be owed to and shall not be collected by, for or in behalf of such authority for storage or other consumption of such taxable item within such authority area]."

SECTION 5. Paragraph (c), Subsection (B), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's

Texas Civil Statutes), is amended by adding Subparagraphs (4) and (5) to read as follows:

"(4) If a sale of tangible personal property is consummated within the state but not within an authority that has adopted the taxes imposed by this section and the tangible personal property is shipped directly into or brought by the purchaser or lessee directly into an authority that has adopted the taxes imposed by this section, the tangible personal property is subject to the use tax imposed by the authority under Subparagraph (1) of this paragraph. The use is considered consummated at the location where the item is first stored, used, or otherwise consumed after the intrastate transit has ceased.

"(5) If the tangible personal property is shipped from outside this state to a customer within this state, the tangible personal property is subject to the use tax imposed by Subparagraph (1) of this paragraph and not the sales tax imposed by Subsection (A) of this section. The use is consummated at the first point in this state where the property is stored, used, or otherwise consumed after interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or other consumption at that point until the contrary is established."

SECTION 6. Paragraph (1), Subsection B, Section 6, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), as amended by this article, expires August 31, 1981.

#### ARTICLE 2

SECTION 1. Paragraph (1), Subsection B, Section 6, Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

"(1) For the purposes of the local sales tax imposed by this Act, all retail sales, leases and rentals, except sales of natural gas or electricity, are consummated at the place of business of the retailer unless the tangible personal property sold, leased, or rented is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination or the taxable service is to be performed at an out-of-state location. In the event the retailer has no permanent place of business in the State, the place or places at which the retail sales, leases, or rentals are consummated for the purposes of the tax imposed by this Act shall be determined under rules and regulations prescribed by the Comptroller. If the retailer has more than one place of business in the State, the place or places at which retail sales, leases, and rentals are consummated shall be the retailer's place or places where the purchaser or lessee takes possession and removes from the retailer's premises the articles of tangible personal property, or if the retailer delivers the tangible personal property to a point designated by the purchaser or lessee, then the sales, leases, or rentals are consummated at the retailer's place or places of business from which tangible personal property is delivered to the purchaser or lessee. The sale of natural gas or electricity is consummated at the point of delivery to the consumer."

SECTION 2. This article takes effect September 1, 1981.

#### ARTICLE 3

SECTION 1. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, except as provided by Article 2, Section 2, and it is so enacted.

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed.

### SENATE BILL 642 WITH HOUSE AMENDMENTS

Senator Blake called **S.B. 642** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1 - G. Green

Substitute the following for S.B. No. 642:

#### A BILL TO BE ENTITLED AN ACT

relating to choice of recovery under uninsured and underinsured motorist coverage.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section (4) (b), Article 5.06-1, Insurance Code, as added, is amended to read as follows:

(b) If the insured has collision coverage and uninsured or underinsured property damage liability coverage, the insured may recover under the policy coverage chosen by the insured. In the event neither coverage is sufficient alone to cover all damage resulting from a single occurrence, the insured may recover under both coverages. When recovering under both coverages, the insured shall designate one coverage as the primary coverage and pay the deductible applicable to that coverage. The primary coverage must be exhausted before any recovery is made under the secondary coverage. If both coverages are utilized in the payment of damages from a single occurrence, the insured shall not be required to pay the deductible applicable to the secondary coverage. In no event shall the insured recover under both coverages more than the actual damages suffered [only under the coverage which is subject to the lower deductible amount.]

SECTION 2. This Act takes effect on January 1, 1980.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 2 - Hartung

Amend House Committee Substitute for **S.B. 642** by striking Section 1 and substituting the following:

SECTION 1. Section (4)(b), Article 5.06-1, Insurance Code, as amended, is amended to read as follows:

(b) If the insured has collision coverage and uninsured or underinsured property damage liability coverage, the insured may recover under the policy coverage chosen by the insured. In the event neither coverage is sufficient alone to cover all damage resulting from a single occurrence, the insured may recover under both coverages. When recovering under both coverages, the insured shall designate one coverage as the primary coverage and pay the deductible applicable to that coverage. The primary coverage must be exhausted before any recovery is

made under the secondary coverage. If both coverages are utilized in the payment of damages from a single occurrence, the insured shall not be required to pay the deductible applicable to the secondary coverage when the amount of the deductible otherwise applicable to the secondary coverage is the same as or less than the amount of the deductible applicable to the primary coverage. If both coverages are utilized in the payment of damages from a single occurrence and the amount of the deductible otherwise applicable to the secondary coverage is greater than the amount of the deductible applicable to the primary coverage, the insured shall be required to pay in respect of the secondary coverage only the difference between the amount of the two deductibles. In no event shall the insured recover under both coverages more than the actual damages suffered. [only under the coverage which is subject to the lower deductible amount].

The amendments were read.

Senator Blake moved to concur in the House amendments.

The motion prevailed.

#### **VOTE ON CONCURRENCE IN HOUSE AMENDMENTS TO SENATE BILL 582 RECONSIDERED**

On motion of Senator Farabee and by unanimous consent, the vote by which the Senate concurred in House amendments to **S.B. 582** was reconsidered.

Question - Shall the Senate concur in the House amendments?

On motion of Senator Farabee, the Senate concurred in the House amendments to **S.B. 582** by the following vote: Yeas 31, Nays 0.

#### **SENATE RULE 103 SUSPENDED**

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider **H.B. 512** and **H.B. 775** at 9:30 o'clock a.m. on Friday, May 25, 1979.

#### **SENATE RULE 103 SUSPENDED**

On motion of Senator Andujar and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider **H.B. 659** today.

#### **MOTION TO CONCUR IN HOUSE AMENDMENTS TO SENATE BILL 171**

Senator Williams moved the Senate concur in House amendments to **S.B. 171**.

On motion of Senator Williams and by unanimous consent, the motion was withdrawn.

#### **SENATE BILL 277 WITH HOUSE AMENDMENTS**

Senator Doggett called **S.B. 277** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Ceverha

Substitute the following for S.B. No. 277:

A BILL TO BE ENTITLED  
AN ACT

relating to regulation of funeral directors, embalmers, and funeral homes; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon's Texas Civil Statutes), is amended by amending Subsections A, D, J, and L, and by adding Subsections M, N, O, P, and Q to read as follows:

A. 1. A "funeral director" as that term is used herein, is a person who for compensation engages in or conducts ~~[engaged in or conducting]~~, or who holds ~~[holding]~~ himself out as being engaged, for compensation, in ~~[=]~~

preparing ~~[1.—Preparing]~~, other than by embalming, for the burial or disposition of dead human bodies, ~~[=]~~ and

maintaining ~~[2.—Maintaining]~~ or operating a funeral establishment for the preparation and disposition, or for the care of dead human bodies.

2. A person who acts as a funeral director without holding a funeral director license violates this Act. This subdivision does not apply to a registered apprentice who works under the supervision of a licensed funeral director. A person who is engaged in the business of funeral directing or who professes to be engaged in that business or who holds himself or herself out to the public as a funeral director shall be a licensed funeral director.

D. The term "embalmer" as herein used is a person who for compensation disinfects or preserves a dead human body, entire or in part by the use of chemical substances, fluids, or gases in the body, or by the introduction of the same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities, or by any other method intended to disinfect or preserve a dead human body, or restore body tissues and structures. The placing of any such chemicals or substances on or in a dead human body by any person who is not a licensed embalmer shall be deemed a violation of this Act, provided that this shall not apply to a registered apprentice working under the supervision of a licensed embalmer. All persons who are engaged in the business of embalming or who profess to be engaged in such business, or hold themselves out to the public as embalmers, shall be licensed embalmers.

J. An "accredited school or college of mortuary science" is a school or college which maintains a course of instruction of not less than forty-eight (48) calendar weeks or four (4) academic quarters or college terms and which gives a course of instruction that includes but is not limited to ~~[in]~~ the following fundamental subjects ~~[as set forth herein]~~: (a) mortuary management and administration; (b) legal medicine and toxicology as it pertains to funeral directing; (c) public health, hygiene and sanitary science; (d) mortuary science, to include embalming technique, in all its aspects; chemistry of embalming, color harmony; discoloration, its causes, effects and treatment; treatment of special cases; restorative art; funeral management; and professional ethics; (e) anatomy and physiology; (f) chemistry, organic and inorganic; (g) pathology; (h) bacteriology; (i) sanitation and hygiene; (j) public health regulations; ~~[and]~~ (k) other courses of instruction in fundamental subjects prescribed by the Board; and (l) local, state, and federal rules and laws relating to the care and disposition of dead human bodies.



L. A "commercial embalmer" or "commercial embalming establishment" is one that ~~[who]~~ embalms for licensed funeral establishments and does not sell any services or merchandise directly or at retail to the public, and shall otherwise meet the requirements of a licensed embalmer as provided in ~~[Section 3 of]~~ this Act. A commercial embalmer or a commercial embalming establishment may not employ an embalmer who is not licensed under this Act.

M. "Solicitation" means a direct or indirect contact with the family, next of kin, or one who has custody of a person who is deceased or near death for the purpose of securing the right to provide funeral services or merchandise for the deceased or the person near death. Provided, however, that the term "solicitation" shall not be deemed to include any attempt to secure funeral business pursuant to a permit issued under the provisions of Chapter 512, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 548b, Vernon's Texas Civil Statutes), or to include any method of advertising by publication or broadcasting.

N. "Funeral merchandise" means merchandise sold primarily for use in funeral ceremonies, for embalming, or for the care and preparation of deceased human bodies for burial, cremation, or other disposition.

O. "Funeral services" means services performed incident to funeral ceremonies or for the care and preparation of deceased human bodies for burial, cremation, or other disposition and includes embalming.

P. "Outer enclosure" means an enclosure or container placed in a grave above or around the casket and includes burial vaults, grave boxes, and grave liners.

Q. "Suitable container" means a container other than a casket that can be used to hold and transport a deceased human body.

SECTION 2. Section 2, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon's Texas Civil Statutes), is amended by amending Subsections A, D, E, I, and N and by adding Subsections O, P, and Q to read as follows:

A. (1) There is hereby created the State Board of Morticians, with offices located in Austin, Texas, consisting of nine (9) ~~[six (6)]~~ members who shall be citizens of the United States and residents of the State of Texas. Five (5) members must ~~[- and shall]~~ be licensed embalmers or ~~[and]~~ funeral directors in the State of Texas and each of these members must ~~[- Each shall]~~ have a minimum of five (5) ~~[ten (10)]~~ years, consecutively, of such experience in this state immediately preceding appointment. At least three (3) such licensed members shall be embalmers. Four (4) members must be representatives of the general public who are not regulated under this Act.

(2) The members of said Board shall be appointed by the Governor, by and with the consent of the Senate for staggered terms ~~[a period]~~ of six (6) years. Each member shall be subject to removal by the Governor for neglect of duty, incompetence, or fraudulent or dishonest conduct. The Governor shall remove from the Board any member whose license to practice funeral directing and/or embalming has been voided, revoked or suspended. ~~[The Governor, in appointing members to the Board, shall designate their terms so that two (2) places on the Board shall become vacant each two (2) years.]~~ Any vacancy in an unexpired term shall be filled by appointment of the Governor for the unexpired term. No member of the Board shall be appointed for more than one (1) full term ~~[two (2) terms]~~ of service.

(3) A member of the Board or an employee of the State Board of Morticians who carries out the functions of the Board may not:

(a) be an officer, employee, or paid consultant of a trade association in the funeral industry;

(b) be related within the second degree by affinity or within the third degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the funeral industry; or

(c) communicate directly or indirectly with a party or the party's representative to a proceeding pending before the Board unless notice and an opportunity to participate is given to all parties to the proceeding, if the member or agent is assigned to make a decision, a finding of fact, or a conclusion of law in the proceeding.

(4) Members of the Board, except those members who are duly licensed embalmers or funeral directors, may not have personally, nor be related to persons within the second degree by affinity or third degree by consanguinity who have, except as consumers, financial interests in funeral establishments as officers, directors, partners, owners, employees, attorneys, or paid consultants of the funeral establishments or otherwise.

(5) No member shall be appointed to the Board who is an officer or employee of a corporation or other business entity controlling or operating, directly or indirectly, more than three funeral establishments, if another member of the Board is also an officer or employee of the same corporation or other business entity.

(6) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to the Board or serve as a member of the Board.

(7) Appointments to the Board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(8) Each member of the Board shall be present for at least one-half of the regularly scheduled meetings held each year by the Board. The failure of a member to meet this requirement automatically removes the member from the Board and creates a vacancy on the Board.

D. The Board shall elect, after thirty (30) days' written notice is given to members, a President, Vice-President, and Secretary from the members of the said Board who shall serve one (1) year ~~two (2) years~~, or until their successor shall be elected and qualified in cases of resignation or death. In the absence of an Executive Secretary, the Secretary shall be bonded to the State of Texas in a sum equal to the maximum annual anticipated receipts of the Board and any premium payable for such bond shall be paid from the funds of the Board; likewise, the Board will require a bond of the Executive Secretary, if any, and such bond shall be deposited with the State Auditor of the State of Texas. ~~[The Secretary shall deliver all money on hand at the end of his term of office to his successor, and the Executive Secretary shall deliver all money on hand to the Secretary upon relief from duty.]~~ The President of the Board shall preside at all meetings of the Board unless otherwise ordered, and he shall exercise all duties and performances incident to the office of the President of the Board, and in his absence the Vice-President shall preside. A majority of the membership of the Board shall constitute a quorum for the transaction of business.

E. The Board shall make an annual report covering the work of the Board for the preceding fiscal year, and such report shall be filed with the Governor and shall include:

1. An itemized account of money received and expended and the purpose therefor which has been duly certified by the State Auditor or a Certified Public Accountant;

2. The names of all duly licensed funeral directors, embalmers, and funeral establishments. ~~[A copy of this report shall be furnished each licensed funeral director and embalmer in this state.]~~ A copy shall ~~[likewise]~~ be filed with the

Secretary of State for permanent record, a certified copy of which, under the hand and seal of the Secretary of State, shall be admissible as evidence in all courts; and

3. A description of the activities of the Board during the preceding fiscal year.

I. Membership of the Board shall be reimbursed for necessary traveling expenses incident to attendance upon the business of the Board, and in addition thereto, each shall receive a per diem allowance of Fifty Dollars (\$50) [~~Twenty-five Dollars (\$25)~~] for each day actually spent by such member upon attendance to the business of the Board, not to exceed sixty (60) [~~fifty (50)~~] days within a calendar year. The Secretary, in the absence of an Executive Secretary, notwithstanding membership on the Board, shall receive and be paid a salary for the time he devotes to the business of the Board, and the amount and method of payment shall be fixed by the Board and in addition thereto, he shall receive necessary traveling expenses incurred in the performance of such duty; provided, however, he shall not be paid a per diem allowance during the time he is compensated on a salary basis; and provided that all such expenses, per diem allowance and compensation shall be paid out of the receipts of the Board. All fees and other funds received by the Board shall be deposited in the State Treasury to the credit of the General Revenue Fund [~~under the provisions of this law in excess of the necessary and proper expenses of the Board shall be held by the Secretary of the Board as a special fund with which to pay the expense of the Board in administering and enforcing this Act~~]. No claim for traveling expenses or per diem allowance shall be allowed or paid unless the claim be in writing and signed by the claimant under oath.

N. The State Board of Morticians is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1991 [~~1979~~].

O. The Board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

P. If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the Board statements opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the Board receives the committees' statements.

SECTION 3. Subsections B, D, E, F, and H, Section 3, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon's Texas Civil Statutes), are amended to read as follows:

B. The minimum requirements for the issuance of licenses by this Board to practice funeral directing and/or embalming in Texas are as follows, to wit:

1. For a license to practice funeral directing: the applicant shall be found by the Board to be not less than eighteen (18) [~~twenty-one (21)~~] years of age, a resident of the State of Texas, [~~and a citizen of the United States, of good moral character,~~] having graduated from an accredited high school or passed examination prescribed by the Texas Education Agency, having graduated from an accredited school or college of mortuary science approved by this Board, having served as an apprentice for at least one (1) year under the personal supervision and instruction of a licensed funeral director and having satisfied the Board through [~~oral and~~] written examination as to his proficiency by examination on the subjects of: (a) the art and technique of funeral directing;

(b) signs of death; (c) the manner by which death may be determined; (d) sanitation; (e) hygiene; (f) mortuary management and mortuary law; (g) business and professional ethics; (h) laws applicable to vital statistics pertaining to dead human bodies; (i) local, state, and federal rules and laws relating to the [governing] preparation, transportation, care, and disposition of dead human bodies; and such other subjects as may be taught in a recognized school or college of mortuary science. Not later than the 30th day after the day on which a person completes an examination administered by the Board, the Board shall send to the person his examination results. If requested by a person who fails the examination, the Board shall send to the person not later than the 30th day after the day on which the request is received by the Board an analysis of the person's performance on the examination.

2. For a license to practice embalming: the applicant shall have been found by the Board to be not less than eighteen (18) [twenty-one (21)] years of age, a resident of the State of Texas, [and a citizen of the United States, of a good moral character] having graduated from an accredited high school or passed examination prescribed by the Texas Education Agency, having graduated from an accredited school or college of mortuary science approved by this Board, having served as an apprentice for one (1) year [two (2) years] under the personal supervision of a licensed embalmer, and having satisfied the Board as to his proficiency through [oral and] written and practical examination on the subjects of: (a) anatomy of the human body; (b) the cavities of the human body; (c) the arterial and venous system of the human body; (d) blood and discoloration; (e) bacteriology and hygiene; (f) pathology; (g) chemistry and embalming; (h) arterial and cavity embalming; (i) restorative art; (j) disinfecting; (k) embalming special cases; (l) contagious and infectious diseases; (m) mortuary management; (n) care, preservation, transportation and disposition of dead human bodies; (o) laws applicable to vital statistics pertaining to dead human bodies; (p) sanitary science; (q) local, state, and federal rules and laws relating to the care and disposition of dead human bodies; and such other subjects as may be taught in a recognized school or college of mortuary science [and shall at the request of the Board, demonstrate his proficiency as embalmer]. Not later than the 30th day after the day on which a person completes an examination administered by the Board, the Board shall send to the person his examination results. If requested in writing by a person who fails the examination, the Board shall send to the person not later than the 30th day after the day on which the request is received by the Board an analysis of the person's performance on the examination.

D. It shall be the duty of the Board to prescribe and supervise the course of instruction received by an apprentice while serving his or her apprenticeship, consistent with the following requirements to establish such an apprenticeship registration procedure:

1. Apprenticeship for embalmer: A license to practice the science of embalming shall not be issued unless and until the applicant therefor has served an apprenticeship period of not less than twelve (12) consecutive [twenty-four (24)] months under the personal supervision and instruction of a licensed embalmer and has successfully completed all requirements of apprenticeship. The only exception to this requirement shall be in the case of an applicant under reciprocity.

(a) Any person, eighteen (18) years of age or more, who desires to practice the science of embalming in this state, files application therefor, meets the requirements of the law and this Board, [and, in the discretion of the Board, is of good moral character] and possesses such qualification to enter into apprenticeship training, may be registered as an apprentice. Apprenticeship for a license to practice the science of embalming must [may] be served by the person

after graduation from [in two ways: (1) the applicant may apply for and serve ~~twelve (12) months apprenticeship before entry into~~ a school [of embalming] or college of mortuary science[, and the remaining twelve (12) months after graduation from such school or college and after successfully taking the Board's examination for embalming as prescribed herein; or (2) the applicant may serve the full twenty-four (24) months period after completing and graduating from a school or college of mortuary science and after successfully taking the Board's examination for embalming as prescribed herein. No part of the apprenticeship time may be served during the year in which the applicant is attending a school or college of mortuary science as defined herein]. Applicant shall pay a fee not to exceed Ten Dollars (\$10) at the time he requests such apprenticeship registration.

[~~(1) A person qualifying in this manner shall serve at least one (1) year of apprenticeship immediately following the successful passing of the written examination accorded him by the Board.~~]

(1) [(2)] An applicant for a license to practice the science of embalming who attains a grade of 70% or higher on the written examination given by the Board upon payment of a fee not to exceed Ten Dollars (\$10) therefor, shall be registered as an apprentice within six (6) months of such examination.

(b) Each registered apprentice embalmer shall be issued a certificate of apprenticeship or other means of apprenticeship identification by the Board to be served in the State of Texas. During the period of apprenticeship he shall assist in embalming a minimum of sixty (60) ~~[one hundred (100)]~~ dead human bodies, six (6) ~~[ten (10)]~~ of which bodies the apprentice shall embalm ~~[after the first year of apprenticeship]~~ without aid but in the immediate presence and under the personal supervision of an embalmer duly and currently licensed in the State of Texas. No more than two (2) apprentices may receive credit due for work on any one body.

(c) An apprentice embalmer must report within ten (10) days after the end of each month ~~[thereof of]~~ each separate case handled by him or with which he has assisted in handling. Each such report shall be certified by the licensee under whom the apprentice performed his work. Throughout the period of apprenticeship, the apprentice shall report on at least one (1) such case of embalming each calendar month, within the month. In any month in which he did not embalm at least one (1) case under the direction of a licensed embalmer, a report shall be made to the Board notwithstanding.

2. Apprentice for Funeral Director: The term of apprenticeship for a funeral director's license shall be a period of not less than twelve (12) months, and may be served concurrently with apprenticeship for an embalmer's license; however, apprenticeship must be served in twelve (12) consecutive months. A person desiring to become an apprentice funeral director shall make application to the Board on a form provided by the Board, and if the Board desires, he shall appear before at least one (1) member of the Board, or a designated representative thereof, for approval of his application, subject to review of it by the entire Board. Applicant must be not less than eighteen (18) ~~[nineteen (19)]~~ years of age[, a person of good moral character] and have completed the educational requirements prescribed for a funeral director, except an applicant for a funeral director's license may elect to serve apprenticeship therefor in like manner to that of one who has applied for a license to practice the science of embalming, by serving one (1) year of apprenticeship prior to completing a course of study in funeral directing prescribed by the Board and graduating from a school of embalming or college of mortuary science. The application for registration shall be sworn to and accompanied by a fee of not to exceed Ten Dollars (\$10). If the application is accepted, applicant will be issued a certificate

of apprenticeship registration upon determination by the Board that his qualifications are satisfactory.

(a) An applicant for a funeral director's license and the examination therefor who has not completed one (1) year of apprenticeship prior to graduation from a school of embalming or college of mortuary science shall be admitted to apprenticeship only in the event he shall have attained a grade of 70% or higher on the written~~[oral]~~ and practical examination ~~[examinations]~~ given by the Board, and the payment of a fee of not to exceed Ten Dollars (\$10) therefor, whereupon he shall be registered as an apprentice. Provided, however, applicant must register as an apprentice within six (6) months of such examination.

(b) An apprentice funeral director must report within ten (10) days after the end of each month ~~[thereof of]~~ each separate case with which he has assisted in handling. Each such report shall be certified to by the licensee under whom the apprentice performed the work. Throughout the period of apprenticeship the apprentice shall report on at least one (1) such case each calendar month, within the month. In any month within which he did not assist a funeral director in handling a funeral, a report shall be made to the Board notwithstanding.

(c) During the course of apprenticeship each apprentice shall assist a licensed funeral director in this state to prepare, other than by embalming, and to make final disposition of not less than sixty (60) ~~[one hundred (100)]~~ dead human bodies, six (6) ~~[ten (10)]~~ of which bodies the apprentice shall handle after the first six months of the apprenticeship ~~[after graduation from an approved school of embalming or college of mortuary science, where one (1) year of apprenticeship was served prior to entrance into an institution for preparation by him to become a funeral director. The Board may require other evidence of his ability, in its discretion].~~ No more than two (2) apprentices may receive credit for work done on any one body.

3. Annual renewal apprenticeship certificate: Each certificate of apprenticeship issued by the Board to an apprentice embalmer or apprentice funeral director must be renewed on the first day of January of each year and will be renewed upon payment by the apprentice of a renewal fee not to exceed Ten Dollars (\$10), provided the apprentice has ~~[conducted himself with propriety and]~~ observed the rules and regulations of the Board with respect to his apprenticeship. Notice shall be mailed, during the month of December each year, to each registered apprentice at his last known address, notifying him that the renewal fee is due. If the renewal fee is not paid on or before the 31st day of January in the year in which it became due, a penalty in the sum of not to exceed Ten Dollars (\$10) will be added to the renewal fee of each certificate when paid. Thirty (30) ~~[Fifteen (15)]~~ days after the grace period as above provided, if said annual renewal fee and penalty still remain unpaid, it shall be the duty of the Board, acting through its Secretary, to suspend his certificate for nonpayment of the annual renewal fee and to notify such apprentice of such suspension by registered mail, addressed to his last known address. If the said renewal fee and penalty is not then paid within ninety (90) ~~[thirty (30)]~~ days from the date of such notice of suspension, the Board shall then cancel such certificate. Provided, however, after an apprentice certificate has been cancelled, the apprentice may apply for reinstatement within eighteen (18) months from the date such apprentice certificate was cancelled and the Board may~~[in its discretion,]~~ reinstate said apprentice provided he meets all other requirements of the Board. It is provided that the registration fee of any apprentice who is actively engaged in the military service of the United States may~~[in the discretion of the Board,]~~ be remitted for the duration of such service or for such fees and such time as the Board may deem advisable upon presentation of proper evidence required by the Board.

3a. The board by rule ~~shall~~ may adopt a system under which certificates expire on various dates during the year. The date for sending notice that payment is due, the dates of the grace period, the date on which penalty attaches, and the date for suspension due to nonpayment shall be adjusted accordingly. For the year in which the certificate expiration date is changed, certification fees payable on January 1 shall be prorated on a monthly basis so that each certificate holder shall pay only that portion of the certification fee which is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date the total renewal fee is payable.

4. Notification of the Board upon entry into apprenticeship: When an apprentice enters the employ of a licensed embalmer or funeral director, he shall immediately notify the Board the name and place of business of the licensed embalmer or funeral director whose service he has entered and the name of the funeral director or embalmer under whom he will train, and such notification shall be signed by the embalmer or funeral director in each case. If at any time thereafter such apprentice leaves the employ of the licensed embalmer or funeral director whose services he has entered, the said licensed embalmer or funeral director shall give to such apprentice an affidavit showing the length of time he has served as an apprentice with him and the number of cases handled while so employed; the original of said affidavit shall be filed with the Board and made a matter of record, and a copy shall be furnished to the apprentice. The Board shall furnish report forms to be used by each apprentice.

(a) Any apprentice registration shall be cancelled, and the applicant required to re-register, including paying the required fees, for failure to pass the Board's examination of such apprentice after only part of the apprenticeship has been completed. Provided, however, such applicant shall be given credit for apprenticeship time served under the cancelled license in any new registration.

5. Certificate of Apprenticeship may be suspended or revoked as provided and set forth in Section 3, subsection H.

E. Any person engaged or desiring to engage in the practice of embalming or funeral directing in this state, in connection with the care and disposition of dead human bodies, shall make written application to the Board for a license accompanying same with a fee not to exceed Fifty Dollars (\$50). The license or licenses when issued shall be signed by a majority of the Board and shall authorize the licensee to practice the science of embalming and/or funeral directing. All licenses shall be registered in the office of the County Clerk in any county in which the holder thereof resides and practices embalming and/or funeral directing and shall be displayed conspicuously in the place of business. Every licensed embalmer and/or funeral director who desires to continue his practice shall ~~biennially~~ annually pay to the Secretary of the said Board a fee not to exceed ~~Forty Dollars (\$40)~~ Ten Dollars (\$10) for the renewal of each funeral director's license and each embalmer's license. Said license shall become due and payable ~~biennially~~ annually on the 31st day of May, and the Board will give written notice on or before April 1st, of each year that the license fees are due and payable. When a licensee under this Act shall fail to pay his ~~biennial~~ annual registration fee, it shall be the duty of the Board to notify such licensee at his last known address that his ~~biennial~~ annual registration fee is due and unpaid and that a penalty equal to the amount of the registration fee has been added. If such fee and penalty are not paid within ~~thirty (30)~~ fifteen (15) days after notification by regular mail, it shall be the duty of the Board to suspend the license and notify the licensee by certified mail, return receipt requested, of such suspension. ~~Ninety (90)~~ Thirty (30) days after the Board shall have declared a license suspended, as provided herein, the license shall be automatically cancelled

and the Board may thereafter ~~[in its discretion]~~ refuse to reinstate the licensee until the applicant has passed a regular examination for license as provided in this Act. If any license issued under this Act shall be lost or destroyed, the holder of any such license may present his application for duplicate license to the State Board of Morticians, on a form to be prescribed by the Board, together with his affidavit of such loss or destruction, and that he is the same person to whom such license was issued, and such other information concerning its loss or destruction as the State Board of Morticians shall require, and shall, upon payment of a fee not to exceed Ten Dollars (\$10), as determined by the Board, be granted a duplicate license~~[- provided further, that the same fee as set forth above for duplicate licenses shall also apply to endorsements by the Board]~~. The Board shall adopt rules to carry out the biennial licensing system.

1. Any license that has been cancelled, suspended or lapsed for a period of five (5) years or more may be reinstated only after the applicant shall have passed a written ~~[an oral]~~ and practical examination by the Board on embalming and/or a written ~~[an oral]~~ examination on funeral directing.

2. The board by rule shall ~~[may]~~ adopt a system under which licenses expire on the various dates during the year. All dates for sending notice regarding payment of fees and dates for license suspension for nonpayment shall be adjusted accordingly. For the year in which the license expiration date is changed, license fees payable on May 31 shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee which is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

F. (1) On a reciprocal basis with other states, countries, or territories the Board may issue, without examination, a license to an applicant who has a corresponding certificate or license issued by another state, country, or territory having standards for the license that are at least substantially equivalent to those of this state and who pays a fee of Fifty Dollars (\$50). ~~[The Board is authorized to make certain reciprocal arrangements. The State Board of Morticians may in its discretion, upon payment by an applicant of a fee of One Hundred Dollars (\$100), grant a license to practice as a funeral director and/or embalmer to persons who furnish proof that they have been registered for at least three (3) years as such, in some other state or territory of the United States; provided that the licensing board of such other state or territory in its examination requires the same general degree of fitness required by this state. Said]~~ The person's application shall be accompanied by an affidavit made by the President or Secretary of the Board of Mortician Examiners which issued the license, or by a duly constituted registration officer of the state, country, or territory by which the certificate or license was granted, and on which the application for registration in Texas is based, reciting that the accompanying certificate or license has not been cancelled, suspended or revoked, and that the statement of the qualifications made in the application for a license in Texas is true and correct. Applicants for a license under the provisions of this Act shall subscribe to an oath in writing before an officer authorized by law to administer oaths, which shall be a part of such application, stating that the license, certificate, or authority under which the applicant practiced as a funeral director or embalmer in the state, country, or territory from which the applicant removed, was at the time of such removal in full force and effect and not cancelled or suspended or revoked. Said application shall also state that the applicant is the identical person to whom the said certificate, license, or commission was issued, and that no proceeding has been instituted against the applicant for the cancellation, suspension or revocation of such certificate or license in the state, country, or territory in which the same was issued; and that no prosecution is pending



against the applicant in any state or federal court for any offense which, under the laws of the State of Texas, is a felony, or is a misdemeanor related to the practice of embalming or funeral directing ~~[involving moral turpitude]~~.

(2) Licenses granted under this subsection shall be on the following basis: Before a license is granted, the applicant shall receive a temporary permit good for one (1) year from date of issuance by the Board. At the end of one (1) year, the holder of said temporary permit shall again be considered by the Board, and if his application for license has been maintained and he meets all other requirements, the Board~~[, in its discretion,]~~ may grant said applicant a license.

H. The State Board of Morticians may seek appropriate injunctive relief against a funeral establishment, licensed embalmer, or funeral director who fails to comply with any provision of this Act. This Act does not affect any remedy or enforcement power under other laws. The State Board of Morticians may ~~[is hereby authorized and empowered and it shall be its duty to conduct hearings to]~~ revoke, suspend, or place on probation~~[, or fine]~~ any licensed funeral director and/or embalmer, or apprentice and may refuse to license or admit persons to examination for any of the following reasons all of which are offenses as provided in Section 6A of this Act:

1. The presentation to the Board of any license, certificate, or diploma which was illegally or fraudulently obtained, or when fraud or deception has been practiced in passing the examination;

2. Conviction of a crime of the grade of a felony or of a misdemeanor that is related to the practice of embalming or funeral directing ~~[involving moral turpitude]~~;

3. Being unfit ~~[Unfit]~~ to practice as a funeral director and/or embalmer by reason of insanity and having ~~[or has]~~ been adjudged by a court of competent jurisdiction to be of unsound mind;

4. The use of any ~~[advertising]~~ statement that ~~[of a character which]~~ misleads or deceives the public, including but not limited to false or misleading statements regarding (1) any legal, religious, or cemetery requirement for funeral merchandise or funeral services, (2) the preservative qualities of funeral merchandise or funeral services in preventing or substantially delaying natural decomposition or decay of human remains, (3) the airtight or watertight properties of a casket or outer enclosure, or (4) representations as to licensed personnel in the operation of a funeral establishment ~~[or use, in connection with advertisements, the names of persons who do not hold a license as a funeral director or embalmer and represent them to be so licensed]~~;

5. The purchase, sale, barter, or use, or any offer to purchase, sell, barter, or use any license, certificate, or transcript of license or certificate, in or incident to an application to the Board of Morticians for license to practice as a funeral director and/or embalmer;

6. Altering, with fraudulent intent, any funeral director and/or embalmer license, certificate, or transcript of license or certificate;

7. The use of any funeral director and/or embalmer license, certificate, diploma, or transcript of any such funeral director and/or embalmer license, certificate, or diploma, which has been fraudulently purchased, issued, counterfeited, or materially altered;

8. The impersonation of, or acting as proxy for, another in any examination required by this Act for a funeral director and/or embalmer license;

9. The impersonation of a licensed funeral director or embalmer as authorized hereunder, or permitting, or allowing another to use his license, or certificate to practice as a funeral director or embalmer ~~[or mortician]~~ in this state~~[, for the purpose of embalming or practicing the science of embalming, in connection with the care and disposition of the dead, or acting as a funeral~~

~~director or practicing as a funeral director in this state, in connection with the care and disposition of the dead];~~

10. Using profane, indecent or obscene language within the immediate hearing of the family or relatives of a decedent, in proximity to a deceased person whose body has not yet been interred or otherwise disposed of; or the indecent exposure of a dead human body;

11. Taking custody of, embalming, or refusing [Refusing] to promptly surrender a dead human body to a person or his agent authorized to make funeral arrangements for the deceased, or embalming a body without the express written or oral permission of a person authorized to make funeral arrangements for the deceased or without making a documented reasonable effort over a period of at least two (2) hours to obtain the permission~~[upon the express order of a person in possession of lawful authority therefor, to a licensed funeral director or embalmer or an agent or employee of the same];~~

12. Wilfully making any false statement on a certificate of death;

13. Employment directly or indirectly of any apprentice, agent, assistant, embalmer, funeral director, employee, or other person on a part or full-time basis, or on commission, for the purpose of soliciting ~~[calling upon]~~ individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;

14. Presentation of false certification of work done as an apprentice on apprenticeship records;

15. Unfitness by reason of present drug addiction; [and]

16. Whenever a licensee, apprentice, or any other person, whether employee, agent or representative, or one in any manner associated with a funeral establishment shall engage in solicitation as defined in this Act; [solicit business or offer any inducement, pecuniary or otherwise, for the purpose of securing or attempting to secure business for such funeral establishment, unless such solicitation is made pursuant to a permit issued under the provisions of Article 548b, Vernon's Texas Civil Statutes, or Senate Bill No. 129, Acts of the 58th Legislature, Regular Session, 1963.]

17. Failure by the Funeral Director in Charge to provide licensed personnel for attendance, direction, or personal supervision for a "first call," as that term is defined in this Act; [-]

18. Failure by a funeral director or embalmer to inform customers by a written notice on or near the casket of the different colors in which the three least expensive caskets displayed are available; or failure by the funeral director or embalmer to provide a casket in an available color requested by a customer if the customer has expressed an intent to purchase the casket and if the casket can be obtained from regular commercial suppliers under normal delivery conditions within 12 hours; [Conduct by a licensee which, in the discretion of the Board, after applying contemporary community standards, is found to be offensive to the common conscience and moral standards of the community where such conduct occurs.]

19. Performing acts of funeral directing or embalming, as those terms are defined in this Act, which are outside the licensed scope and authority of the licensee;[-]

20. Engaging in fraudulent or deceptive conduct in providing funeral services or merchandise to a consumer; [Conviction by the Board, after a hearing as provided in this Act, or fraud or other similar deception against the public.]

21. Statement or implication by a funeral director or embalmer that a customer's concern with the cost of any funeral service or funeral merchandise is improper or indicates a lack of respect for the deceased;

22. Failure by any person arranging for funeral services or merchandise to make available to the customer at the time of discussion or selection of funeral services or funeral merchandise a printed or typewritten list of the retail price of at least the following items, provided they are available for purchase through the establishment: (a) transferring the deceased to the funeral home; (b) embalming; (c) use of facilities for viewing; (d) use of facilities for funeral ceremonies; (e) hearses; (f) limousines; (g) the itemized services of the funeral establishment staff; (h) caskets; (i) outer enclosures; and which contains the name, address, and telephone number of the funeral establishment, an effective date for the prices, and a notice which reads, "You may choose only the items you desire. You will be charged only for the items you use. If you have to pay for any items you did not specifically ask for, we will explain the reason in writing on the memorandum of agreement. Please note that there may be charges for such items as cemetery fees, flowers, and newspaper notices." The person arranging the funeral service shall make known to the customer the availability of the list and shall provide the list, which the customer may keep, before any contractual agreement between the parties;

23. Failure of any person arranging for funeral services or merchandise to provide each customer a written memorandum itemizing the cost of funeral services and funeral merchandise selected by the customer as enumerated in the price list, the requirements of which are set forth in Section 3, Subsection H(22) of this Act; each amount paid or owed to another on behalf of the customer; each fee for the cost of advancing funds or becoming indebted to another on behalf of the customer; and including the name, address, and telephone number of the funeral establishment and the following notice: "Charges are only for those items that are used. If the type of funeral selected requires extra items, we will explain the reasons in writing on this memorandum." Provided, however, that any person arranging for funeral services or merchandise may satisfy the itemization requirements of this subsection H(23) by providing prices to the purchaser on a component or unit pricing basis that provides a discount to the purchaser if any component or unit is declined, or if all components or units are selected.

"The written memorandum shall also include the name, mailing address and telephone number of the State Board of Morticians and a statement indicating that complaints can be directed to the Board."

24. Restricting, hindering, or attempting to restrict or hinder (1) the advertising or disclosure of prices and other information regarding the availability of funeral services and funeral merchandise that is not unfair or deceptive to consumers, or (2) agreements for funeral services between any consumer or group of consumers and funeral directors or embalmers;

25. Failure to retain and make available to the State Board of Morticians, upon request, copies of all price lists, written notices, and memoranda of agreement required by this article for two years after the date of their distribution or signing.

SECTION 4. Subsection C, Section 4, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

C. Each funeral establishment shall be required to have a physical plant, equipment and personnel consisting of the following:

1. Some ~~Adequate~~ facilities in which funeral services may be conducted;
2. ~~[A preparation room being used by such establishment that meets the sanitary code of the State of Texas and the municipality in which same is located;~~
- ~~[3.]~~ A physical plant which meets building standards and fire safety standards of the state and of the municipality in which the establishment is located;

3. ~~[4:]~~ Access to rolling stock consisting of at least one motor hearse;
4. ~~[5:]~~ A preparation room ~~[that is secluded from the public, properly ventilated, and]~~ containing an operating table, sewer facilities, hot and cold running water, and other facilities necessary to comply with the sanitary code of the state and the municipality in which the room is located ~~[sufficient instruments and chemicals to embalm a dead human body];~~
5. ~~[6:]~~ A display ~~[room]~~ containing sufficient merchandise to permit reasonable selection, including five (5) or more adult caskets, provided that the least expensive casket offered for sale by a funeral establishment must be displayed in the same general manner as other caskets are displayed;
6. ~~[7:]~~ Sufficient licensed personnel who will be available to conduct the operation of the funeral establishment;
7. ~~[8:]~~ A physical plant located at a fixed place, and not located on any tax-exempt property or cemetery; and
8. ~~[9:]~~ A physical plant which meets the health standards or health ordinances of the state and of the municipality in which the establishment is located.

It is expressly provided, however, that an establishment which functions solely as a commercial embalmer, as that term is defined in this Act, shall have a commercial embalmers [funeral] establishment license, but shall not be required to meet the requirements of sub-sections 1 and 6 of this paragraph C.

SECTION 5. Subdivision 2, Subsection D, Section 4, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

2. As to asserted violations of provisions of this Section, the Board shall have the following powers, rights and duties:

(a) The Board may, in any case, require a sworn statement setting forth matter complained of as a condition to taking further action.

(b) The Board shall cause an investigation to be made whenever a complaint is filed with or by the Board. ~~[In any investigation or hearing by the Board, it may require the attendance of witnesses by issuing notices to witnesses and ordering them to appear and testify. The Board may require testimony to be given under oath or affirmation. Such notice to a witness shall be issued at the request of the Board or the accused licensee or the organization whose application for license has been denied. Such notice must be in writing and signed by presiding member of the Board, and shall notify the witness of the time and place to appear. Notice to a witness shall be served on him personally or by mailing same to him by registered mail, return receipt requested. Proof of such may be made by certificate of the person making the same, with return receipt attached when made by registered mail.]~~

~~[If any witness fails or refuses to appear before the Board, such witness shall be compelled by a Judge of any District Court to appear and testify at a hearing before such judge in the same manner as witnesses may be compelled to appear and testify in a civil suit in a District Court. Application for such hearing may be filed by any party to such proceedings in any District Court of the County in which such witness resides or may be found. The judge shall fix by order a time and place for such hearing and shall provide for such notice to the Board and the accused or the applicant for a license or certificate which has been denied as he determines proper. If such witness fails to appear or testify he shall be punished as in case of contempt.]~~

(c) As to the licenses of funeral establishments, except when the accused admits a violation and agrees in writing to a judgment of the Board suspending or revoking the license in question or placing the accused on probation ~~[or fining the accused]~~, the Board shall have no power or authority to ~~[fine the accused or]~~

suspend or revoke the license of the accused. However, the Board shall have the right to initiate a civil action in a District Court in the county in which the accused resides for the purpose of seeking a revocation or suspension of such license or probationary action or fine all as hereinafter provided.

If the Board shall be of the opinion that the license of the accused should be revoked or suspended for a period not to exceed three years, and if the accused will accept a decision of the Board to such effect, it shall prepare a formal judgment and submit the same to him; and upon his agreement to its entry, evidenced by memorandum in writing signed and acknowledged by him, the Board shall enter judgment accordingly and the same shall have the force and effect of a judgment of the District Court of the county of the residence of the accused. A copy of the judgment, together with a copy of the complaint, shall be mailed to the clerk of the District Court of the county of residence of the accused for entry in the minutes of the court.

(d) The term "Accusation" or "Complaint" shall embrace all complaints brought before the Board. By the terms "civil suit," "court action" or "formal complaint" is meant the pleading by which disciplinary action is instituted by the Board in a District Court of this state.

The Texas rules of civil procedure shall govern the procedure in all proceedings under Civil Actions (Formal Complaint).

The District Attorney or the County Attorney of the county of residence of the accused licensee as defendant, or the Attorney General or such counsel as the Board may designate shall represent the Board as it shall determine.

The formal complaint shall be the pleading by which the proceeding is instituted. The formal complaint shall be filed in the name of the Texas State Board of Morticians as plaintiff against the accused licensee as defendant and shall set forth the violation with which the defendant is charged. The prayer may be that the defendant "be placed on probation or his (its) license suspended or revoked or he (it) be fined as the facts shall warrant."

The answer of the defendant to the formal complaint shall either admit or deny each allegation of the petition, except where the defendant is unable to admit or deny the allegation, in which case defendant shall set forth the reasons he (it) cannot admit or deny.

Proceedings under formal complaint shall be entitled to preferred setting at the request of either party.

If the court shall find from the evidence in a case tried without a jury, or from the verdict of the jury, if there be one, that the defendant is guilty of no violation, he shall enter judgment so declaring and dismiss the complaint; but if he shall find the defendant guilty, he shall determine whether the party shall be (a) placed under probation (in which case he shall specify the terms thereof), (b) the license suspended (in which case he shall fix the term of suspension), (c) the license revoked, or (d) fined (in which case he shall set the amount thereof); and he shall enter the judgment accordingly. If the judgment be one finding the defendant guilty as aforesaid, it shall direct transmittal of certified copies of the judgment and complaint to the Secretary of the Board of Morticians; and the latter shall make proper notation on the membership rolls.

At any time after the expiration of one year from the date of final judgment or revocation of a license, such party may petition the District Court of the county of his residence for reinstatement. Notice of such action shall be given to the Secretary of the State Board of Morticians.

The Board shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this Section. Said action for an injunction shall be in addition to any other action, proceeding, or remedy recognized by law. The Board shall be represented by counsel designated by it, or, by the Attorney General and/or County and District Attorney of this state.

Any fine imposed on the accused~~[, whether by agreement with the Board or imposed]~~ through judicial proceedings shall be no less than Two Hundred Dollars (\$200) nor more than Two Thousand Dollars (\$2,000) ~~[One Thousand Dollars (\$1,000)]~~. Any fines collected ~~[by the Board or]~~ by the court shall be deposited in the General Fund of the State of Texas.

SECTION 6. Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon's Texas Civil Statutes), is amended by adding Sections 6C, 6D, 6E, and 6F to read as follows:

**Sec. 6C. ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT.**

(a) A person who is denied a license or certificate by the Board is entitled to a hearing before the Board in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), if the person requests the hearing in writing.

(b) A proceeding conducted by the Board relating to the suspension or revocation of a license or certificate is governed by the Administrative Procedure and Texas Register Act. Judicial review of the proceeding is by trial de novo and is governed by the Administrative Procedure and Texas Register Act.

**Sec. 6D. COMPLAINTS.** (a) The Board shall investigate and keep an information file about each complaint received by the Board relating to a funeral director, embalmer, apprentice, or funeral establishment.

(b) The Board shall include in each information file a description of the complaint, the date on which the complaint was filed, the name of the complainant, a description of any information obtained by the Board after investigating the complaint, a description and date of any formal actions taken by the Board relating to the complaint, a description of the current status of the complaint, and other information that the Board considers appropriate.

(c) The Board periodically shall inform the parties to a complaint of the status of the complaint until the complaint is finally resolved.

(d) The information file, except for information in the file obtained by the Board after investigating the complaint, is public information. The information obtained after investigating the complaint is not public information.

(e) If a person files a complaint with the Board relating to a licensed funeral director, embalmer, or funeral establishment, the Board shall furnish to the person an explanation of the remedies that are available to the person under this Act and information about appropriate state or local agencies or officials with which the person may file a complaint.

(f) The Board shall employ at least one person who is a licensed private investigator under the laws of this state and who is not regulated under this Act. The private investigator may investigate complaints of consumer interest and other complaints received by the Board.

**Sec. 6E. CONSUMER INFORMATION.** (a) The Board shall prepare information of consumer interest explaining matters relating to funerals, describing the regulatory functions of the Board, and describing the Board's procedures by which consumer complaints are filed with and resolved by the Board.

(b) The Board shall disseminate the information to the general public.

**Sec. 6F. EX PARTE COMMUNICATIONS.** The members and employees of the Board are subject to the provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), relating to ex parte communications.

SECTION 7. Section 6, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. REVOCATION, CANCELLATION OR SUSPENSION OF LICENSES OF FUNERAL DIRECTORS, EMBALMERS AND APPRENTICES. The State Board of Morticians shall have the right to cancel, revoke, or suspend or place on probation the license of any individual person licensed under this Act as provided by subparagraph H of Section 3 above.

Proceedings under this Section shall be initiated by filing charges with the State Board of Morticians in writing and under oath. Said charges may be made by any person or persons. The President of the State Board of Morticians shall set a time and place for hearing~~], shall cause a copy of the charges, together with a notice of the time and place fixed for hearing, to be served on the respondent or his counsel at least ten (10) days prior thereto. When personal service is impossible, or cannot be effected, the Board shall cause to be published once a week for two (2) successive weeks a notice of the hearing in a newspaper published in the county wherein the respondent was last known to reside and shall mail a copy of the charges and of such notice to the respondent at his last known address. When publication of the notice is necessary, the date of hearing shall not be less than ten (10) days after the date of the last publication of the notice. At said hearing the respondent shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his behalf, to cross examine witnesses, and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records and publications authorized or required by the terms of this Act shall be privileged].~~

~~[Any licensed funeral director and/or embalmer whose license has been revoked, suspended or renewal refused, or a person to whom the Board has refused to issue a license under this Act, shall have the right of appeal, from any such decision of the Board to any District Court in the county in which he resides within twenty (20) days from and after the date the said Board announces its final decision. In a suit brought to review orders, decisions, or other acts of the Board, the trial shall be de novo as that term is used and understood in an appeal from a Justice of Peace Court to the County Court. The rights of the parties thereto shall be determined by the Court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this section.]~~ Upon application, the Board may reissue a license to practice as a funeral director or embalmer to a person whose license has been cancelled or suspended, but such application, in the case of cancellation or revocation, shall not be made prior to one (1) year after the cancellation or revocation, and shall be made in such a manner and form as the Board may require.

The State Board shall have the power to appoint committees from the membership. The duties of any committees appointed from the State Board of Morticians membership may consider such matters pertaining to the enforcement of this Act as shall be referred to such committees, and they shall make recommendations to the State Board of Morticians with respect thereto. The State Board of Morticians shall have the power, and may delegate the said power to any committee, to issue subpoenas, duces tecum, and to compel the attendance of witnesses, the production of books, records and documents, to administer oaths, and to take testimony concerning all matters within its jurisdiction. ~~The [State Board of Morticians shall not be bound by such rules of evidence or procedure, in the conduct of its proceedings, but the]~~ determination shall be

founded on sufficient legal evidence to sustain it. The State Board of Morticians shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this Act. Said action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law. The State Board of Morticians shall be represented by the Attorney General and/or the County or District Attorneys of this state, or counsel designated and empowered by the Board. Before entering any order cancelling, suspending, refusing to renew, or revoking a license to practice as a funeral director and/or embalmer, the Board shall hold a hearing in accordance with the procedure as set forth in this Act.

The provisions of this Section shall not apply to funeral establishments or licenses pertaining to funeral establishments.

SECTION 8. Sections 6A and 7, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 6A. OFFENSES ~~[ACTING WITHOUT LICENSE]~~. A person commits an offense if the person:

(1) ~~Acts or holds himself out [Any person posing] as a funeral director, embalmer, or apprentice, [holding himself out to the public as a funeral director, embalmer, or apprentice] as those terms are defined in this Act, without being properly licensed under this Act or shall make a "first call" without the authorization or supervision as provided in Section 1C of this Act;~~

(2) ~~Is a licensed funeral director or embalmer and engages in a funeral practice that is grounds for suspension or revocation of the person's license [shall be guilty of a violation of this Act, and on complaint of the Board may be prosecuted and punished under the provisions of Section 7].~~

Sec. 7. PENALTY. (a) An offense under Section 6A of this Act is a Class B misdemeanor.

(b) The Board may file a complaint with the appropriate governmental authorities to begin prosecution of a person who commits an offense under Section 6A of this Act. The State Board of Morticians or any adversely affected party may sue a funeral establishment or licensed embalmer or funeral director who fails to comply with any provision of this Act for appropriate injunctive relief. This Act does not affect a remedy or enforcement power under other laws. Any person who practices as a funeral director, embalmer or apprentice in violation of any provisions of this Act shall be fined not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500) or shall be imprisoned in the county jail for not more than thirty (30) days, or both. Each day of such practice shall constitute a separate offense.

SECTION 9. (a) A person holding office as a member of the State Board of Morticians on the effective date of this Act continues to hold the office for the term for which the member was originally appointed.

(b) The governor shall make initial appointments of three public members, one for a term expiring on January 31, 1981, one for a term expiring on January 31, 1983, and one for a term expiring on January 31, 1985. The additional public member shall be appointed upon expiration of the term of one incumbent funeral industry member on May 31, 1981.

(c) The terms of office of the appointees who fill the offices of incumbent members whose terms expire on May 31, 1981, and May 31, 1983, shall expire on January 31, 1987, and January 31, 1989, respectively.

SECTION 10. Neither the Board nor the Department of Health shall adopt any rule or regulation requiring embalming of bodies to be cremated.

SECTION 11. Subsection J, Section 3, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon's Texas Civil Statutes), is repealed.



SECTION 12. This Act takes effect on September 1, 1979.

SECTION 13. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 2 - Lalor

Amend C.S.S.B. No. 277, first printing, on Page 36, by striking Lines 6-8 and substituting the following:

(c) The Board, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved.

Amend C.S.S.B. No. 277, first printing, on Page 7, Line 26 by striking "or a certified public accountant"

Amendment No. 3 - Lalor

Amend C.S.S.B. No. 277, first printing, by substituting the following for Section 10 on Page 41, Line 27 and Page 42, lines 1-2:

This Board shall promulgate no rule or regulation requiring embalming, no other state agency shall promulgate or enforce a rule or regulation requiring embalming without a finding that such rule or regulation is necessary to protect the public health.

Amendment No. 4 - Jackson

Amend CSSB 277 on p. 30, line 25 by striking the number "6" and replacing it with the number "5"

The amendments were read.

Senator Doggett moved to concur in the House amendments.

The motion prevailed.

**LEAVE OF ABSENCE**

Senator Jones of Taylor was granted leave of absence for the remainder of today on account of important business on motion of Senator Farabee.

**SENATE RULE 103 SUSPENDED**

On motion of Senator Farabee and by unanimous consent, Senate Rule 103 was suspended as it relates to **H.B. 595** which was considered by the Committee on Jurisprudence today.

**SENATE RULE 74 SUSPENDED**

On motion of Senator Farabee and by unanimous consent, Senate Rule 74 was suspended as it relates to **H.B. 595**.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 24, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT  
THE HOUSE HAS PASSED THE FOLLOWING:

**RESOLUTIONS CALENDAR**

**S.C.R. 20** Memorializing Congress to amend Title XVI of the Social Security Act to revise the earnings limit used to determine "substantial gainful activity."

**S.C.R. 25** Requesting the Department of Human Resources to make payments to rural health clinics for health care services legally provided by them to Medicaid recipients.

**S.C.R. 36** Directing State Board of Education and appropriate interim committees to undertake state-wide study of curriculum for Texas public schools.

**S.C.R. 41** Requesting the Employees Retirement System of Texas to conduct a study of the feasibility of providing service credit to county child welfare workers who were not members of the System during their entire employment as child welfare workers subject to supervision by the State Department of Public Welfare.

**S.C.R. 42** Granting H.D. Schwarz, Jr., et al, permission to sue the State of Texas.

**S.C.R. 49** Granting Harris County, Harris County Flood Control District and Harris County Hospital District permission to sue the State of Texas.

**S.C.R. 50** Granting Harris County permission to sue the State of Texas.  
(With amendment)

**S.C.R. 58** Directing the University of Texas Institute of Texas Cultures at San Antonio, in coordination with the State Board of Control, to place commemorative plaques for permanent display in Bicentennial Park, Austin.

**S.C.R. 73** Encouraging all state agencies delivering human services to expand existing volunteer programs and initiate new programs for recruiting, training, and placing volunteers to work with the elderly and disabled.

**S.C.R. 75** Granting Sam D. Millsap permission to sue the State of Texas.

**S.C.R. 77** Granting Dahlstrom Corporation permission to sue the State of Texas.

**S.C.R. 78** Granting Dahlstrom Corporation permission to sue the State of Texas.

**S.C.R. 79** Granting Dahlstrom Corporation permission to sue the State of Texas.

**S.C.R. 80** Granting Dahlstrom Corporation permission to sue the State of Texas.

**S.C.R. 81** Granting Dahlstrom Corporation permission to sue the State of Texas.

**S.C.R. 82** Granting Dahlstrom Corporation permission to sue the State of Texas.

**S.C.R. 83** Granting Dahlstrom Corporation permission to sue the State of Texas.

HCR 100, Requesting the Institute of Contemporary Corrections and the Behavioral Sciences at Sam Houston State University to conduct a study in the area of child sexual abuse.

HCR 101, Requesting the Institute of Contemporary Corrections and the Behavioral Sciences to study methods for uniform reporting of child abuse, juvenile offenses, and runaways by law enforcement agencies and the Department of Human Resources.

HCR 200, Granting permission to Dolores Flores to sue the state.

HCR 211, Granting permission to Elkins Lake Municipal Utility District and Elkins Lake Recreation Corporation to sue the state.

HCR 213, Granting permission to John Edward Cuatt to sue the state.

**S.J.R. 8** Proposing an amendment to Article XVI of the Texas Constitution, by adding Section 30c to provide that appointive members of governmental bodies who are appointed by the governor shall serve at the pleasure of the governor

**S.J.R. 35** Proposing a constitutional amendment permitting the Legislature to authorize banks to use unmanned teller machines within the county or the city of their domicile, on a shared basis, to serve the public convenience. (With amendment)

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

(President in Chair)

#### HOUSE BILL 1714 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1714**, Relating to respite care provided by licensed nursing, convalescent, and foster care homes.

The bill was read second time and was passed to third reading.

**HOUSE BILL 1714 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1714** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Jones of Taylor

The bill was read third time and was passed.

**SENATE RULES SUSPENDED**

On motion of Senator Patman and by unanimous consent, Senate Rule 67 was suspended in order that **H.B. 2253** might be substituted for **S.B. 1304**.

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE HOUSE BILL 1918  
ON SECOND READING**

Senator Traeger asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**C.S.H.B. 1918**, Relating to the allocation and use of certain cigarette tax revenue.

There was objection.

Senator Traeger then moved to suspend the regular order of business and take up **C.S.H.B. 1918** for consideration at this time.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members of the Senate present): Yeas 17, Nays 13.

Yeas: Andujar, Blake, Brooks, Creighton, Farabee, Harris, Howard, McKnight, Meier, Mengden, Moore, Ogg, Price, Short, Snelson, Traeger, Williams.

Nays: Braecklein, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Parker, Patman, Santiesteban, Schwartz, Truan, Vale.

Absent-excused: Jones of Taylor.

**SENATOR ANNOUNCED PRESENT**

Senator Jones of Taylor who had previously been recorded as "Absent-excused" was announced "Present".

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE HOUSE BILL 169  
ON SECOND READING**

Senator Brooks moved to suspend the regular order of business to take up for consideration at this time:

**C.S.H.B. 169**, Relating to compensation of certain resident physicians.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members of the Senate present): Yeas 20, Nays 11.

Yeas: Braecklein, Brooks, Clower, Harris, Jones of Harris, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Price, Santiesteban, Short, Traeger, Truan, Vale, Williams.

Nays: Andujar, Blake, Creighton, Doggett, Farabee, Howard, Jones of Taylor, Moore, Patman, Schwartz, Snelson.

**CONSIDERATION OF NOMINATIONS**

The President announced that the time had arrived for the Senate to consider the nominations to agencies, boards and commissions. (Notice of submission of these names having been given by Senator McKnight yesterday.)

**REPORT OF STANDING COMMITTEE**

Senator McKnight submitted the following report for the Subcommittee on Nominations:

To be a Member of the BOARD OF DIRECTORS, TRINITY RIVER AUTHORITY: Mr. Robert T. Mattox, Houston County.

To be a Member of the BANKING SECTION, FINANCE COMMISSION OF TEXAS: Mr. George S. Cone, Aransas County.

To be a Member of the TEXAS BOARD OF CORRECTIONS: Mr. Henry C. Beck, Dallas County.

To be Members of the BOARD OF TAX ASSESSOR EXAMINERS: Mr. Roy Barton Sinclair, Angelina County; Mrs. Audrey Bruse, Potter County.

To be a Member of the BOARD OF DIRECTORS, BRAZOS RIVER AUTHORITY: Mr. John Louis Burgess, McLennan County.

To be a Member of the TEXAS HISTORICAL COMMISSION: Mrs. James F. Biggart, Jr., Dallas County.

**PENDING BEFORE THE SENATE:**

To be a Member of the BOARD OF REGENTS, NORTH TEXAS STATE UNIVERSITY: Mr. Harrel E. Chiles, Tarrant County.

Senator McKnight moved confirmation of the nominees reported by Subcommittee on Nominations.

The President asked if there were motions to sever nominees.

Senator Schwartz moved to sever the nomination of Mr. Harrel E. Chiles, to be a Member of the Board of Regents, North Texas State University.

The request was granted.

Senator McKnight moved confirmation of those nominees reported by the Subcommittee on Nominations and not severed.

#### **NOMINEES CONFIRMED**

Those nominees were confirmed by the following vote: Yeas 31, Nays 0.

Senator McKnight moved the confirmation of Mr. Chiles.

Senator Schwartz made a substitute motion that Mr. Chiles' confirmation be postponed until 11:00 o'clock a.m. tomorrow.

The motion prevailed by the following vote: Yeas 16, Nays 15.

Yeas: Braecklein, Brooks, Clower, Doggett, Farabee, Jones of Harris, Kothmann, Longoria, Mauzy, Parker, Patman, Santiesteban, Schwartz, Truan, Vale, Williams.

Nays: Andujar, Blake, Creighton, Harris, Howard, Jones of Taylor, McKnight, Meier, Mengden, Moore, Ogg, Price, Short, Snelson, Traeger.

#### **SENATE BILL 174 WITH HOUSE AMENDMENTS**

Senator Jones of Harris called **S.B. 174** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - G. Green

Substitute the following for S.B. No. 174:

#### **A BILL TO BE ENTITLED AN ACT**

relating to personal leave and holidays for public employees.

#### **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** In this Act, "state employee" means a person who, pursuant to election, appointment, or an express contract of hire, is in the service of an office, department, commission, board, or other agency, not including a river authority or an institution of higher education, that is part of any branch of state government.

**SECTION 2.** Each state employee is entitled to two days of personal leave a year with pay. This leave accrues on the first day of employment in each fiscal year and may not be carried forward from one fiscal year to the next. The employer may require the employee to give five days' written notice in advance of taking personal leave.

**SECTION 3.** Article 4591, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

Article 4591. ENUMERATION. The first day of January, the 19th day of January, ~~[the third Monday in February,]~~ the second day of March, the 21st day of April, the last Monday in May, the fourth day of July, the 27th day of August, the first Monday in September, ~~[the second Monday in October,]~~ the 11th day of November, the fourth Thursday in November, and the 25th day of December, of each year, and every day on which an election is held throughout the state, are declared legal holidays, on which all the public offices of the state may be closed and shall be considered and treated as Sunday for all purposes regarding the presenting for the payment or acceptance and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes placed by the law upon the footing of bills of exchange. The nineteenth day of January shall be known as "Confederate Heroes Day" in honor of Jefferson Davis, Robert E. Lee and other Confederate heroes.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 2 - Leonard

Amend SB 174 by adding on page 1 after line 14:

"If the employer determines that the office will be understaffed because of the number of people taking advantage of this section then he or she may disallow as many leaves as necessary to provide for an adequate staff. If the employer disallows any employee's leave and more than one employee has requested a leave then the employees shall have priority in the order that they requested a leave.

Amendment No. 3 - Kubiak

Substitute the following for S.B. No. 174:

Strike all below the enacting clause and add the following:

SECTION 1. In this Act, "state employee" means a person who, pursuant to election, appointment, or an express contract of hire, is in the service of an office, department, commission, board, or other agency, not including a river authority or an institution of higher education, that is part of any branch of state government.

SECTION 2. Each state employee is entitled to one day of personal leave a year with pay. This leave accrues on the first day of employment in each fiscal year and may not be carried forward from one fiscal year to the next. The employer may require the employee to give ten days' written notice in advance of taking personal leave.

SECTION 3. Article 4591, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

Article 4591. ENUMERATION: The first day of January, the 19th day of January, the third Monday in February, the second day of March, the 21st day of April, the last Monday in May, the 19th day of June, the fourth day of July, the first Monday in September, the 12th day of October, the eleventh day of November, the fourth Thursday in November, and the 25th day of December, of each year, and every day on which an election is held throughout the state, are declared legal holidays, on which all the public offices of the state may be closed and shall be considered and treated as Sunday for all purposes regarding the presenting for the payment or acceptance and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes placed by

the law upon the footing of bills of exchange. The nineteenth day of January shall be known as "Confederate Heroes Day" in honor of Jefferson Davis, Robert E. Lee and other Confederate heroes, the third Monday in February is in honor of Abraham Lincoln and the Father of our Country George Washington, the second day of March is Texas Independence Day, the 21st day of April is San Jacinto Day, the 19th day of June is Emancipation Day, the first Monday in September is Lyndon B. Johnson and Labor Day and October 12 is Columbus Day.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendments were read.

Senator Jones of Harris moved that the Senate do not concur in the House amendments; but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 174** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Jones of Harris, Chairman; Schwartz, Doggett, Mauzy and Brooks.

(Senator Howard in Chair)

#### **HOUSE BILL 1612 ON SECOND READING**

On motion of Senator Ogg and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1612**, Relating to the method of competitive bidding in the award of contracts for the construction, alteration or repair of public works; and declaring an emergency.

The bill was read second time and was passed to third reading.

(President in Chair)

#### **HOUSE BILL 1612 ON THIRD READING**

Senator Ogg moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1612** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.



Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Patman.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

### **BILLS ORDERED NOT PRINTED**

On motion of Senator Moore and by unanimous consent, the following bills were ordered not printed:

<b>H.B. 2244</b>	<b>C.S.H.B. 2100</b>
<b>C.S.H.B. 915</b>	<b>H.B. 621</b>
<b>H.B. 1455</b>	<b>H.B. 2220</b>
<b>H.B. 1382</b>	<b>H.B. 2236</b>
<b>H.B. 1242</b>	<b>H.B. 2253</b>
<b>H.B. 2206</b>	<b>H.B. 620</b>
<b>H.B. 2104</b>	<b>H.B. 2160</b>
<b>H.B. 1990</b>	<b>H.B. 2184</b>
<b>H.B. 2051</b>	<b>H.B. 2264</b>
<b>H.B. 1784</b>	<b>H.B. 798</b>
<b>H.B. 1224</b>	<b>H.B. 1463</b>
<b>H.B. 865</b>	<b>H.B. 1355</b>
<b>H.B. 876</b>	<b>H.B. 399</b>
<b>H.B. 1730</b>	<b>H.B. 1096</b>
<b>C.S.H.B. 916</b>	<b>H.B. 1566</b>
<b>H.B. 2256</b>	<b>H.B. 1742</b>
<b>H.B. 2182</b>	<b>S.R. 605</b>
<b>H.B. 2175</b>	<b>H.B. 1806</b>
<b>H.J.R. 34</b>	

### **SENATE BILL 755 WITH HOUSE AMENDMENT**

Senator Moore called **S.B. 755** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - G. Green

Substitute the following for S.B. No. 755:

#### **A BILL TO BE ENTITLED AN ACT**

relating to the authority of the Texas Employment Commission to sell and convey certain state-owned land and the disposition of the proceeds.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1. AUTHORITY TO SELL.** (a) The Texas Employment Commission may sell for cash and convey all of the interest of the State of Texas in the tracts or parcels of land described in Section 2(a) of this Act, together with

all improvements located on the land. The sale of the properties described in Section 2(a) shall be made only after advertisement in at least two issues of a newspaper published in the county in which the land is located, the first such publication to be made at least 30 days in advance of the sale date, describing the land to be sold and calling for sealed bids on the land. The bids shall be opened on the sale date at the office of the Texas Employment Commission, TEC Building, 15th and Congress, Austin, Texas. Each bid shall be accompanied by cash, cashier's check, or certified check in the amount of 10 percent of the amount bid, which shall be forfeited to the Texas Employment Commission in the event the bidder is awarded the bid and fails or refuses to complete the purchase of the real property on tender of a deed to the property. The Texas Employment Commission shall reject all bids or shall accept the highest bid submitted.

(b) The Texas Employment Commission may sell and convey to the city of McAllen, in consideration of a sum agreeable to the commission, all the interest of the State of Texas in certain tracts or parcels of land described in Section 2(b) of this Act, together with all improvements located on the land. If, within a reasonable time, the Texas Employment Commission and the city of McAllen do not agree to the consideration, terms, and conditions for the sale or, for any reason, fail to accomplish the sale, the Texas Employment Commission may sell and convey all of the interest of the State of Texas in the tracts or parcels of land described in Section 2(b) of this Act in the same manner that it may sell and convey the tracts or parcels of land described in Section 2(a) of this Act.

SECTION 2. DESCRIPTION OF LAND. (a) The state-owned properties that the Texas Employment Commission may sell as provided by Section 1(a) of this Act are the following described tracts and parcels of land:

(1) all that certain tract of land in the City and County of El Paso, State of Texas, described as: The south sixteen and two-thirds feet (16-2/3') of Lot Thirty-seven (37), and all of Lot Thirty-eight (38), Lot Thirty-nine (39), Lot Forty (40), Lot Forty-one (41), and Lot Forty-two (42) in Block Five (5) of Satterthwaite Addition to the City of El Paso, El Paso County, Texas;

(2) all that certain tract of land situated in Orange, Orange County, State of Texas; being Lots 3 and 4, in Block 67, of the City of Orange, Texas, in accordance with the plat of said City of Orange, recorded in Volume "K", page 47, Deed Records of Orange County, Texas, a copy of said plat being also recorded in Volume 1, page 74, of the Map Records of Orange County, Texas;

(3) all that certain tract of land situated in the City of Port Arthur, Jefferson County, State of Texas; being all of Lots 18, 19, 20, 21, 22, 23, and 24, in Block 79, of the City of Port Arthur, Jefferson County, Texas, according to the map or plat thereof recorded in Volume 1, page 50, Map Records of Jefferson County, Texas;

(4) all that certain tract of land located in Tyler, Smith County, Texas, described as follows:

A part of N.C.B. 666-C to the City of Tyler, Smith County, Texas,

BEGINNING 40 feet South 0 degrees 40 minutes West from N.W.C. of Lot 1, Block 666-C of the "Herndon Resubdivision" as per Plat in Volume 1, page 227 of the Smith County Plat Records; an iron pin (found) on present S.B.L. of West Front Street (90 feet wide) and E.B.L. of South Hill Avenue;

THENCE South 0 degrees 40 minutes West 268-1/10 feet along E.B.L. of Hill Avenue to an iron pin (found) on N.B.L. of McCain Drive;

THENCE East 150 feet along McCain Drive to an iron pin for corner;

THENCE North 0 degrees 40 minutes East 268-1/10 feet to an iron pin on present S.B.L. of West Front Street;

THENCE West 150 feet along S.B.L. of West Front Street to the PLACE OF BEGINNING; being the West 150 feet of a lot conveyed by Grace Herndon Patten et al to the Coca Cola Bottling Works as of record in Volume 636, page 598, of Deed Records;

(5) all that certain tract of land described as follows: Situated within the Corporate Limits of the City of Paris, County of Lamar, and State of Texas, a part of the Larkin Rattan Survey, also being a part of City Block 108, and being a description of 2 lots as follows:

BEGINNING at a stake for corner at the intersection of the East Boundary Line of S.E. 6th St., with the North Boundary Line of Fort St., said point being the Southwest corner of said City Block 108, said point also being the Southwest corner of said Wear tract of land;

THENCE East along the North Boundary Line of Fort St., a distance of 254 ft. to a stake for corner, said point being the Southeast corner of said Wear tract of land;

THENCE North a distance of 125 ft. to a stake for corner;

THENCE West a distance of 70 ft. to a stake for corner;

THENCE North a distance of 17 ft. to a metal post for corner;

THENCE West a distance of 184 ft. to an iron pin for corner in the East Boundary Line of S.E. 6th St., said point being the Northwest corner of said Wear tract of land;

THENCE South along the E.B. Line of S.E. 6th St., a distance of 142 feet to the place of beginning;

(6) all that certain tract of land lying and being situated in Bell County, Texas, to-wit:

A tract of land in the City of Temple, Bell County, Texas, and the land herein described being a part of Parcel #16 and a part of Parcel #17 of the "old Scott & White Hospital location" a Plat of which is on record in Vol. 904, Page 449 of the Deed Records of Bell County, Texas, and a part of the land conveyed to S. R. Sales, Inc. by Scott and White Memorial Hospital and Scott, Sherwood and Brindley Foundation by deed of record in Vol. 905, Page 326, Deed Records of Bell County, Texas.

BEGINNING at the northeast corner of the said Parcel #16, the intersection of the south line of Avenue "G" with the west line of Fifth Street for the northeast corner of this.

THENCE S. 19 deg. 00' W., 150.0 feet with the west line of Fifth Street and the east line of Parcel #16 and Parcel #17, a point in the east line of Parcel #17 for the southeast corner of this.

THENCE N. 71 deg. 00' W., 83.0 feet to an iron pipe for the southwest corner of this.

THENCE N. 19 deg. 00' E., 150.00 feet to a point in the north line of Parcel #16 and the south line of Avenue "G" for the northwest corner of this.

THENCE S. 71 deg. 00' E., 83.0 feet to the place of beginning.

As surveyed on the ground by Fred Williamson, Registered Public Surveyor, on December 14, A.D. 1964;

(7) all that certain tract of land situated in Dallas County, Texas, and described as follows, to-wit:

BEING all of LOTS ONE (1), TWO (2) and THREE (3) and the East ten (10) feet of LOT FOUR (4) in BLOCK 84 of DALWORTH PARK, now an Addition to the City of Grand Prairie, according to the Map of said Addition, recorded in Vol. 1, Pages 546 and 547, Map Records, Dallas County, Texas; SAVE AND EXCEPT the South forty (40) feet deeded to The State of Texas for right-of-way widening; and

All that certain tract of land situated in Dallas County, Texas, described as follows, to-wit:

BEING LOT TWENTY (20) in BLOCK 76 of DALWORTH PARK, now an Addition to the City of Grand Prairie, according to the Map of said Addition recorded in Vol. 1, Pages 324 and 325, Map Records, Dallas County, Texas; and

(8) all that certain tract of land located in Fort Worth, Tarrant County, Texas, described as follows, to-wit:

All of Block Three (3) of Sanders (sometimes called Saunders) Addition to the City of Fort Worth, Tarrant County, Texas, as recorded on August 2, 1967, in Vol. 4438, Pages 585, 586, 587, 588, 589, and 590, and as further recorded on August 3, 1967, in Vol. 4439, Pages 118, 119, and 120, all of the Deed Records of Tarrant County, Texas.

(b) The tracts or parcels of land that the Texas Employment Commission may sell to the city of McAllen as provided by Section 1(b) of this Act, for the use and benefit of the McAllen General Hospital, are:

(1) All of Lot 7, Block 62, Original Townsite of McAllen, Hidalgo County, Texas; according to Records of Deeds, Hidalgo County, Texas, in Vol. 877, Pages 416 and 417; and

(2) All of Lot 8, Block 62, Original Townsite of McAllen, Hidalgo County, Texas; according to Records of Deeds, Hidalgo County, Texas, in Vol. 1121, Pages 58 and 59.

SECTION 3. CONVEYANCE. The three members of the Texas Employment Commission, or a quorum of the commission, may execute and deliver a proper deed conveying the real property to the purchaser. The form of the conveyance shall be approved by the attorney general.

SECTION 4. USE OF PROCEEDS. Proceeds realized from the sale of these real properties, less the expenses of the sale, shall be used by the Texas Employment Commission for the purpose of purchasing other real property and for the construction of other buildings on the properties to be used by the commission in the administration of the Texas Unemployment Compensation Act.

SECTION 5. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Moore moved to concur in the House amendment.

The motion prevailed.

#### **SENATE RULE 103 SUSPENDED**

On motion of Senator Parker and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider **H.B. 852** today.

#### **VOTE ON FINAL PASSAGE OF HOUSE JOINT RESOLUTION 98 RECONSIDERED**

On motion of Senator Jones of Taylor and by unanimous consent, the vote by which **H.J.R. 98** was finally passed was reconsidered.

Question - Shall **H.J.R. 98** be finally passed?

**VOTE ON SUSPENSION OF THREE-DAY RULE FOR  
HOUSE JOINT RESOLUTION 98 RECONSIDERED**

On motion of Senator Jones of Taylor and by unanimous consent, the vote by which the Senate suspended the three-day rule to consider **H.J.R. 98** on third reading was reconsidered.

Question - Shall **H.J.R. 98** be considered on third reading?

**VOTE ON PASSAGE OF  
HOUSE JOINT RESOLUTION 98 TO THIRD READING  
RECONSIDERED**

On motion of Senator Jones of Taylor and by unanimous consent, the vote by which **H.J.R. 98** was passed to third reading was reconsidered.

Question - Shall **H.J.R. 98** be passed to third reading?

**VOTE ON ADOPTION OF  
AMENDMENT TO H.J.R. 98 RECONSIDERED**

On motion of Senator Jones of Taylor and by unanimous consent, the vote by which **H.J.R. 98** was amended was reconsidered.

Question - Shall the amendment to **H.J.R. 98** be adopted?

On motion of Senator Jones of Taylor and by unanimous consent, the amendment was withdrawn.

Question recurring on the passage to third reading of the resolution, the resolution was again passed to third reading.

Question recurring on the suspension of the Three-Day Rule to consider **H.J.R. 98** on third reading, the Three-Day Rule was again suspended by the following vote: Yeas 31, Nays 0.

The resolution was again read third time.

Question recurring on the final passage of the resolution, the resolution was again finally passed by the following vote: Yeas 31, Nays 0.

**SENATE RULE 103 SUSPENDED**

On motion of Senator Short and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Natural Resources might consider **H.B. 1971** on Friday, May 25, 1979.

**MOTION RELATIVE TO  
LOCAL AND UNCONTESTED CALENDAR PROCEDURE**

Senator Jones of Harris made the following motion:

I move that the bills and resolutions listed on the Local and Uncontested Calendar be set as Special Order for 1:00 o'clock p.m. today and considered in

the order listed, with the understanding that a bill or resolution removed from the Calendar will not be considered. I further move that the Three-Day Rule be suspended with respect to bills on the Local and Uncontested Calendar that are engrossed today.

The motion prevailed by the following vote: Yeas 31, Nays 0.

### **SENATE RULE 103 SUSPENDED**

On motion of Senator Braecklein and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider **H.B. 1685** today.

### **RECESS**

On motion of Senator Moore the Senate at 12:12 o'clock p.m. took recess until 1:00 o'clock p.m. today.

### **AFTER RECESS**

### **LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer (Senator Jones of Harris in Chair) announced that the time had arrived for the consideration of the Local and Uncontested Bills Calendar in accordance with the provisions of **S.R. 16**. (Bills having been set as Special Order and Constitutional Three-Day Rule suspended by a vote of 31-0 today.

The following bills were laid before the Senate, read second time, amended (where applicable), passed to engrossment, read third time and passed. (Sponsor and vote on final passage indicated after caption of each bill. When amended, vote on final passage follows the amendment.)

**C.S.S.B. 85** (Braecklein) Animal Control and Welfare Act. (31-0)

**S.B. 212** (Mauzy) Relating to appointment of the county auditor by district and county judges.

Senator Mauzy offered the following committee amendment to the bill:

Amend SB 212 by adding the following:

“(a) on page 1, line 8 between the words “APPOINTMENT.” and “The,” and by adding a new section “(b)” to read as follows:

“This section shall only apply to counties having a population of 950,000 or more.”

The committee amendment was read and was adopted.

Senator Mauzy offered the following amendment to the bill:

Amend SB 212 by adding the words, “In counties having a population of 950,000 or more” at the beginning of line 21 of the printed bill.

Amend SB 212 by striking Section b.

The amendment was read and was adopted.

On motion of Senator Mauzy and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

**S.B. 473** (Mengden) Relating to boundaries of justice precincts. (31-0)

**S.B. 588** (Braecklein) Relating to the service of process by sheriffs and constables.

Senator Braecklein offered the following committee amendment to the bill:

Amend **S.B. 588** as follows:

Strike entire Section 1 (b), on page 3, lines 1-13.

The committee amendment was read and was adopted.

Senator Braecklein offered the following committee amendment to the bill:

Amend SB No. 588 by deleting the following language "or attempting to execute" on line 16 page 1

and

"or attempted" on line 11 page 1

The committee amendment was read and was adopted.

Senator Braecklein offered the following amendment to the bill:

Amend S.B. No. 588 by striking all below the enacting clause and substituting the following:

SECTION 1. Section 1, Chapter 696, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 3933a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. (a) Sheriffs and Constables shall receive the following fees:

For each person, corporation or legal entity, on whom service of citation, subpoena, summons, or process not otherwise provided for, is performed or attempted and return made, including mileage, if any, a fee of

(a) Small Claims Courts	\$6.00[\$4.00]
(b) Justice Courts	\$10.00
(c) All other Courts	\$12.00[\$8.00]

For executing or attempting to execute each writ of garnishment, injunction writ, distress warrant, writ of attachment, writ of sequestration, writ of execution, order of sale, writ of execution and order of sale, or writ not otherwise provided for, and making return thereon including mileage, if any, a fee of

(a) Small Claims Courts	\$6.00[\$4.00]
(b) Justice Courts	\$10.00
(c) All other Courts	\$12.00[\$8.00]

For posting written notices in public places, as may be required by law, a fee for posting each location including mileage, if any

\$5.00[\$2.00]

For the taking and approving of bonds as may be required by law, and returning same to the court as may be required, a fee of

\$6.00[\$4.00]

For each case tried in District or County Court, a jury fee of

\$5.00~~(\$1.00)~~

For executing a deed to each purchaser of real estate under execution of order of sale, a fee of

\$6.00~~(\$4.00)~~

For executing a bill of sale to each purchaser of personal property under an execution or order of sale, when demanded by purchaser a fee of

\$6.00~~(\$4.00)~~

Collecting money on an execution or an order of sale, when the same is made by a sale, for the first One Hundred Dollars (\$100) or less, ten percent (10%); for the second One Hundred Dollars (\$100), seven percent (7%); for all sums over Two Hundred Dollars (\$200) and not exceeding One Thousand Dollars (\$1,000), four percent (4%); for all sums over One Thousand Dollars (\$1,000) and not exceeding Five Thousand Dollars (\$5,000), two percent (2%); for all sums over Five Thousand Dollars (\$5,000), one percent (1%).

When the money is collected by the Sheriff or Constable without a sale, one-half (1/2) of the above rates shall be allowed him.

(b) An officer who is unable to effect service of a document referred to in Subsection (a) of this section may not return the document unexecuted prior to its expiration unless its return is requested by the court or by the litigant at whose request it was issued, or by the litigant's attorney.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted.

On motion of Senator Braecklein and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

**S.B. 758** (Traeger) Relating to administration, coverage and taxation under college and university employees health insurance. (31-0)

**C.S.S.B. 770** (Mauzy) Relating to school district detachment. (31-0)

**S.B. 928** (Traeger) Relating to the collection of certain information concerning optional retirement system by participants in the optional retirement program. (31-0)

**C.S.S.B. 991** (Andujar) Relating to extension of certain city limits. (31-0)

**S.B. 1273** (Mengden) Relating to the authority of certain cities to annex a municipal utility district. (31-0)

**S.B. 1291** (Snelson) Relating to the annexation by a city of property to be developed by the city as an industrial park. (31-0)

**S.B. 1298** (Brooks) Relating to receivership as a remedy for violations of rules regulating nursing and convalescent homes. (31-0)

**S.B. 1303** (Patman) Creating the Jackson County Hospital District.



Senator Patman offered the following amendment to the bill:

Amend S.B. No. 1303 by striking all below the enacting clause and substituting the following:

**SECTION 1. BOUNDARIES AND NAME.** In accordance with the provisions of Article IX, Section 9, of the Texas Constitution, this Act authorizes the dissolution of the Edna Hospital District and the creation, establishment, administration, maintenance, operation, and financing of a hospital district within this state, the boundaries of which shall be coextensive with those of Jackson County. The new district shall be known as the Jackson County Hospital District with the rights, powers, and duties provided in this Act.

**SECTION 2. ESTABLISHMENT OF HOSPITAL SYSTEM.** The district shall provide for the establishment of a hospital system by the purchase, construction, acquisition, repair, or renovation of buildings and improvements, and equipping for hospital and medical care purposes, and the administration of the system for hospital purposes.

**SECTION 3. CREATION OF DISTRICT.** (a) The district shall not be created nor shall any tax be authorized unless and until the creation and the tax are approved by a majority of the qualified electors of the area of the proposed district voting at an election called and held for that purpose and unless and until the dissolution of the Edna Hospital District is approved by a majority of the qualified electors of the Edna Hospital District voting at that election. An election shall be held on July 28, 1979, by order of the temporary directors of the proposed district. If the propositions to create the district and authorize the tax and to dissolve the Edna Hospital District are not approved at that election, a subsequent election shall be held on those propositions each time a petition requesting an election signed by 100 or more qualified electors residing in the proposed district is filed with the temporary board. Within 10 days after a petition is filed, the temporary directors shall order the election. The temporary directors may choose a date for an election that is not less than 35 or more than 60 days from the date the election is ordered. Section 9b, Texas Election Code, as amended (Article 2.01b, Vernon's Texas Election Code), does not apply to an election held under this Act. The orders calling the election shall specify the date, the place or places of holding the election, the form of ballot, and the presiding judge and alternate judge for each voting place and shall provide for clerks as in county elections. Notice of the election shall be given by the temporary directors by publishing a substantial copy of the election order in a newspaper or newspapers of general circulation in the proposed district once a week for two consecutive weeks, the first publication to appear at least 30 days before the date set for the election.

(b) At the election, the qualified voters shall vote whether or not to approve the creation of the proposed hospital district, to assume the outstanding indebtedness incurred for hospital purposes by the Edna Hospital District, Jackson County, or any city or town in the proposed district, to accept transfer of existing hospital facilities and all assets of the Edna Hospital District, to accept existing hospital facilities and assets related to hospital purposes of Jackson County or any city or town in the proposed district, and to levy annual taxes not to exceed 75 cents on the \$100 valuation. At the same election, the qualified voters of the Edna Hospital District shall vote to dissolve that district, the dissolution conditioned on sufficient votes being cast to create the proposed district. The Edna Hospital District is not dissolved until a majority of the qualified voters in the proposed district voting at an election votes to create the proposed district, and a majority of the qualified voters in the Edna Hospital District votes to dissolve the Edna Hospital District. The ballots cast in the Edna

Hospital District on the proposition to create the proposed district shall be counted separately from the ballots cast on that proposition in the portion of the county outside the Edna Hospital District.

(c) The ballot used at the election shall be worded so that votes may be cast for or against the following proposition: "The creation of the Jackson County Hospital District, providing for the levy of a tax not to exceed 75 cents on each \$100 valuation on all taxable property within the hospital district subject to hospital district taxation, providing for the transfer to the district of the outstanding indebtedness, existing hospital facilities, and all assets of the Edna Hospital District, and providing for the transfer of existing hospital facilities and the assets and indebtedness related to hospital purposes of Jackson County and any city or town within the Jackson County Hospital District."

(d) A separate ballot for the dissolution of the Edna Hospital District shall be given qualified voters in that district. It shall be worded so that votes may be cast for or against the following proposition: "The dissolution of the Edna Hospital District if the Jackson County Hospital District is created, providing for the transfer to the Jackson County Hospital District of all the outstanding indebtedness, existing hospital facilities, and all assets of the Edna Hospital District."

(e) If a majority of the qualified voters voting at the election in the proposed district votes against the creation of the Jackson County Hospital District, or if a majority of the qualified voters in the Edna Hospital District voting in the election do not vote for dissolution of that district, the Mauritz Memorial Hospital and the Edna Hospital District shall share equally the cost of conducting the election; and other elections may be held on the same propositions.

(f) Within 20 days after the election is held, the temporary directors shall convene and canvass the returns of the election and, if the election results are favorable to the propositions specified in Subsections (c) and (d) of this section, the temporary directors shall so find and declare the Jackson County Hospital District created and the Edna Hospital District dissolved.

SECTION 4. BOARD OF DIRECTORS. (a) On the effective date of this Act, each of the following persons is named as a temporary director to serve as a member of the board of directors of the district:

1. representing the district at large, J. L. Tipton;
2. representing precinct one, Itasca Stafford;
3. representing precinct one, Roland Espinosa;
4. representing precinct two, Jack Willeford;
5. representing precinct two, Dr. Walter Ray Konzen;
6. representing precinct three, W. C. "Bill" Hollingsworth;
7. representing precinct three, Tim Garcia;
8. representing precinct four, Carroll Roome; and
9. representing precinct four, A. W. McBride.

(b) Each temporary director shall take the constitutional oath of office within 15 days after the effective date of this Act. Until the district is created, the only duties of the temporary board are to order elections, canvass the returns, and declare the results as provided in Section 3 of this Act.

(c) Any vacancy in the office of temporary director, whether by reason of failure to qualify or vacancy prior to the confirmation of the district at an election, shall be filled by appointment by majority vote of the remaining directors.

(d) At the time the creation of the district and the dissolution of the Edna Hospital District are approved and the returns of the election officially canvassed, the persons then serving as temporary directors shall become

permanent directors of the district to serve until the first Saturday in April of the year following the creation election. Successors to the board shall be chosen by the election of two directors from each commissioners precinct and one director elected at large. In even-numbered years, the successors to directors elected from the even-numbered positions are elected. In odd-numbered years, the successors to directors elected from odd-numbered positions and the director elected at large are elected. Successors shall be elected for two-year terms. Candidates for director shall run for office from positions. Candidates for director from a precinct shall run for one of the two positions for that precinct and candidates for the director at large shall run for the at-large position. If no candidate for director from a particular position receives a majority of the votes of the qualified voters voting for that position in the election, the board shall order a runoff election between the two candidates for the position receiving the highest number of votes at the original election, and the runoff election shall be held on the next first Saturday in May. The board shall publish notice of the runoff election in a newspaper or newspapers that individually or collectively provide general circulation in the area of the runoff election one time at least seven days before the date of the runoff election. If either candidate dies or files a written request with the secretary of the board to have his or her name omitted from the ballot at the runoff election, the ballot shall be printed to provide for voting for either of the two candidates who received the highest number of votes at the election on the first Saturday in April, without regard to votes cast for the candidate who died or filed the request to be omitted from the ballot. Of the names printed on the ballot at the runoff election, the name of the candidate who received the higher number of votes at the election on the first Saturday in April shall be printed first on the ballot.

(e) Except in the case of runoff elections, the board shall publish notice of each election of directors in a newspaper or newspapers that individually or collectively provide general circulation in the district one time at least 30 days before the date of the election. A candidate for director shall file with the secretary of the board of directors at least 35 days before the election a request to have his or her name printed on the ballot for the position for which he or she desires to be a candidate. The board shall canvass the returns and declare the results. A vacancy in office shall be filled for the unexpired term by appointment by the remainder of the board of directors.

(f) No person shall be elected or appointed as a member of the board unless he or she is a resident of the district and a qualified elector. A director elected or appointed to represent the area of a commissioners precinct must be a resident of that area, and failure of the director to maintain residence there is a ground for removal from office in the manner provided by law for removal of county officers. Neither an administrator, the attorney, nor any employee of the district shall be eligible to serve as a director.

(g) The board shall organize by electing from its number a president, a vice-president, and a secretary. Officers who are elected by the board serve in that capacity for a term of one year and a vacancy shall be filled for the unexpired term by the board. Any five members of the board shall constitute a quorum, and a concurrence of five shall be required in all matters pertaining to the business of the district except that a concurrence of seven is required to order an election on the sale or closing of a hospital transferred to the district by the county or the Edna Hospital District or to recommend to the legislature legislation to amend this Act.

**SECTION 5. POWERS AND DUTIES.** The board shall manage, control, and administer the hospital system and all funds and resources of the district, but in no event shall any operating, depreciation, or building reserves be invested in

any funds or securities other than those specified in Article 836 or 837, Revised Civil Statutes of Texas, 1925, as amended. The district, through its board, may sue and be sued and may promulgate rules governing the operation of the hospital, the hospital system, its staff, and its employees. The board may appoint a qualified administrator or assistant administrator for each hospital of the district and an attorney may be appointed for the district. The administrators, the attorney, and the assistant administrators, if any, shall serve at the will of the board and shall receive the compensation determined by the board. An administrator shall, on assuming his or her duties, execute a bond payable to the hospital district in an amount to be set by the board, in no event less than \$5,000, conditioned that he or she shall perform the duties required of him or her, and containing such other conditions as the board may require. The expense of the bond may be paid from funds of the district. The administrator shall supervise all the work and activities of his or her hospital and shall have general direction of the affairs of his or her hospital, subject to the limitations as may be prescribed by the board. The board may appoint to the staff doctors it may deem necessary for the efficient operation of the district, and may provide for temporary appointments to the staff if warranted by circumstances. The board may delegate to an administrator the authority to employ technicians, nurses, and employees of the district or of his or her hospital. The board may contract with other political subdivisions or governmental agencies whereby the district will provide investigatory or other services as to facilities for the medical care, hospital, or welfare needs of the inhabitants of the district, and may contract with any county or incorporated municipality located outside its boundaries for reimbursement for the care and treatment of the sick, diseased, or injured persons of that county or municipality. The district may also contract with the state or agencies of the federal government for the reimbursement for the treatment of sick, diseased, or injured persons.

**SECTION 6. BUDGET.** The district shall be operated on the basis of a fiscal year established by the board, provided the fiscal year may not be changed during the time revenue bonds of the district are outstanding or more than once in any 24-month period. The board shall have an annual audit made of the financial condition of the district, which together with other records of the district shall be open to inspection at the principal office of the district. Each administrator shall prepare annually a separate budget for the hospital for which he or she is administrator, and the board shall combine those budgets into a single budget for the district. The budget shall also contain a complete financial statement of the district showing all outstanding obligations of the district, the cash on hand to the credit of each fund of the district, the funds received from all sources during the previous year, the funds available from all sources during the ensuing year, the balances expected at the end of the year in which the budget is being prepared, estimated revenues and balances available to cover the proposed budget, and the estimated tax rate that will be required. A public hearing on the annual budget shall be held by the board after notice of a hearing has been published in a newspaper with general circulation in the district one time at least 10 days before the date set for the hearing. Any person who is residing in or a taxpayer of the district is entitled to be present and participate at the hearing. At the conclusion of the hearing, the budget, as proposed by the administrators, shall be acted on by the board. The board shall have authority to make changes in the budget that in its judgment the law warrants and the interest of the taxpayers demands. No expenditure may be made for any expense not included in the annual budget or an amendment to it. The annual budget may be amended from time to time as the circumstances may require, but the annual budget and all amendments to it shall be approved by the board. As

soon as practicable after the close of each fiscal year, the administrators shall prepare for the board a full sworn statement of all money belonging to the district and a full account of the disbursements of same.

**SECTION 7. GENERAL OBLIGATION BONDS.** (a) The board may issue and sell its bonds in the name and on the faith and credit of the hospital district for any purpose related to the purchase, construction, acquisition, repair, and renovation of buildings and improvements, and equipping the same for hospital purposes. At the time of the issuance of any bonds by the district, a tax shall be levied by the board sufficient to create an interest and sinking fund to pay the interest on and principal of the bonds as they mature, providing that the tax together with any other taxes levied for the district shall not exceed 75 cents on each \$100 valuation of all taxable property located in the district subject to hospital district taxation in any one year. No general obligation bonds may be issued by the hospital district except refunding bonds until authorized by a majority of the qualified electors of the district. The board, in ordering a bond election, shall specify the date of the election, the amount of bonds to be authorized, the maximum maturity of the bonds, the place or places where the election will be held, and the presiding judge and alternate judge for each voting place, and shall provide for clerks as in county elections. Section 9b, Texas Election Code, as amended (Article 2.01b, Vernon's Texas Election Code), does not apply to a bond election. Notice of any bond election shall be given as provided in Article 704, Revised Civil Statutes of Texas, 1925, as amended, and the election shall be conducted in accordance with the Texas Election Code, as amended, except as modified by the provisions of this Act. The board shall canvass the returns and declare the results.

(b) Refunding bonds of the district may be issued for the purpose of refunding and paying off any outstanding indebtedness it has issued or assumed. The refunding bonds may be sold and the proceeds applied to the payment of outstanding indebtedness or may be exchanged in whole or in part for not less than a similar principal amount of outstanding indebtedness. If the refunding bonds are to be sold and the proceeds applied to the payment of any outstanding indebtedness, the refunding bonds shall be issued and payments made in the manner specified by Chapter 503, Acts of the 54th Legislature, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes). Refunding bonds shall be issued in conformity with Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes).

(c) Bonds of the district shall mature within 40 years of their date, shall be executed in the name of the hospital district and in its behalf by the president of the board, shall be countersigned by the secretary in the manner provided by the Texas Uniform Facsimile Signature of Public Officials Act, as amended (Article 717j-1, Vernon's Texas Civil Statutes), shall bear interest at a rate not to exceed that prescribed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes), and shall be subject to the same requirements in the manner of approval by the attorney general and registration by the comptroller of public accounts as are by law provided for approval and registration of bonds issued by counties. On the approval of the bonds by the attorney general and registration by the comptroller, the bonds shall be incontestable for any cause.

**SECTION 8. REVENUE BONDS.** In addition to the power to issue bonds payable from taxes levied by the district as contemplated by Section 7 of this Act, the board may issue and refund any previously issued revenue bonds for purchasing, constructing, acquiring, repairing, equipping, or renovating buildings and improvements for hospital purposes, and for acquiring sites for hospital purposes. The bonds shall be payable from and secured by a pledge of all or any

part of the revenues of the district to be derived from the operation of its hospital or hospitals, and the bonds may be additionally secured by a mortgage or deed of trust lien on any part or all of its property. The bonds shall be issued in the manner and in accordance with the procedures and requirements specified for the issuance of revenue bonds by county hospital authorities in Sections 8, 10, 11, 12, and 13 of Chapter 122, Acts of the 58th Legislature, 1963, as amended (Article 4494r, Vernon's Texas Civil Statutes).

**SECTION 9. DISTRICT PROPERTY.** (a) The district may sell or otherwise dispose of any real or personal property or equipment of any nature, on terms and conditions found by the board to be in the best interest of its inhabitants, except that the board may not sell or close a hospital transferred to the district by Jackson County or the Edna Hospital District unless the sale or closing of the hospital is approved by a two-thirds majority of the qualified electors of the district voting at an election called and held for that purpose. The board may not call an election on the question of the sale or closing of one of those hospitals without the concurrence of seven directors, and may not call an election for that purpose within 12 months of a preceding election for that purpose.

(b) The board may prescribe the method and manner of making purchases and expenditures by and for the hospital district, and may prescribe all accounting and control procedures. Contracts for construction involving the expenditure of more than \$10,000 may be made only after advertising in the manner provided by Chapter 163, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes). The provisions of Article 5160, Revised Civil Statutes of Texas, 1925, as amended, relating to performance and payment bonds shall apply to construction contracts let by the district. The district may acquire equipment for use in its hospital system and mortgage or pledge the property acquired as security for the payment of the purchase price. Except as permitted in the preceding sentence and Sections 7 and 8 of this Act, the district may incur no obligation payable from revenues of the district, tax or otherwise, except those on hand or to be on hand within the then current and following fiscal years of the district.

(c) Subject to the Texas Health Planning and Development Act, as amended (Article 4418h, Vernon's Texas Civil Statutes), after providing for the interest and sinking funds requirement of the bonded indebtedness created by the Edna Hospital District and assumed by the Jackson County Hospital District, and further providing for any tax revenue that may be required to support operations expense, together with annual maintenance requirements for each facility, the board shall allocate to the hospital transferred to the district by Jackson County an amount not to exceed the next \$150,000 of tax income available for repairs and improvements required to maintain operations during each of the three years following creation of the district. A similar additional allocation may be made for the hospital located in Edna in the event the board determines that need therefor exists.

**SECTION 10. DEPOSITORY.** (a) After advertising in the manner provided by Chapter 163, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), the board shall choose by competitive bidding one or more banks within or without its boundaries to serve as depository for the funds of the district. All funds of the district, except those invested as provided by Section 5 of this Act and those transmitted to a bank or banks of payment for bonds or obligations issued or assumed by the district, shall be deposited as received with the depository bank and shall remain on deposit. Nothing in this Act shall limit the power of the

board to place a portion of the funds on time deposit or purchase certificates of deposit.

(b) Before the district deposits funds in any bank in an amount that exceeds the maximum amount secured by the Federal Deposit Insurance Corporation, the bank shall be required to execute a bond or other security in an amount sufficient to secure from loss the district funds that exceed the amount secured by the Federal Deposit Insurance Corporation.

SECTION 11. TAX RATE. (a) The board may annually levy a tax not to exceed the amount permitted by this Act for the purpose of paying:

(1) the indebtedness assumed or issued by the district, but no tax may be levied to pay the principal of or interest on revenue bonds issued under the provisions of Section 8 of this Act; and

(2) the maintenance and operating expenses of the district, including improvements to facilities of the district.

(b) In setting the tax rate, the board shall take into consideration the income of the district from sources other than taxation. On determination of the amount of tax required to be levied, the board shall make the levy and certify it to the tax assessor-collector.

SECTION 12. BONDS AS INVESTMENTS. All bonds issued and indebtedness assumed by the district shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, trustees, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions or corporations of the State of Texas, and public funds of the State of Texas, or cities, towns, villages, counties, school districts, or other political subdivisions or corporations of the State of Texas, and shall be lawful and sufficient security for those deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

SECTION 13. EMINENT DOMAIN. (a) The district shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple, or any lesser interest in property, within the boundaries of the district necessary or convenient to the powers, rights, and privileges conferred by this Act, in the manner provided by the general law with respect to condemnation by counties. The district shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as amended, or to make bond as provided in that law. In condemnation proceedings being prosecuted by the district, the district shall not be required to pay in advance or give bond or other security for costs in the trial court, or to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction or to give bond for costs or for supersedeas on any appeal or writ of error.

(b) If the board requires the relocation, raising, lowering, rerouting, or change in grade or alteration of the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, or facilities, or pipelines in the exercise of the power of eminent domain, all of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction due to the exercise of the power of eminent domain shall be the sole expense of the board. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

SECTION 14. TAX ASSESSMENT AND COLLECTION. (a) The directors shall have the authority to levy taxes for the entire year in which the

district is established as a result of the election provided in this Act. The commissioners court shall serve as the board of equalization for the district and all taxes of the district shall be assessed and collected on county tax values as provided by Subsection (b) of this section unless the board, by majority vote, elects to appoint a board of equalization and to have taxes assessed and collected by its own tax assessor-collector under Subsection (c) of this section. That determination may be made by the board before December 1 annually and shall govern the manner in which taxes are subsequently assessed and collected until changed by a similar resolution. Hospital tax shall be levied on all taxable property within the district subject to hospital district taxation.

(b) Under this subsection, district taxes shall be assessed and collected on county tax values in the same manner as provided by law with relation to county taxes. The tax assessor-collector of the county in which the district is located shall be charged and required to accomplish the assessment and collection of all taxes levied by and on behalf of the district. The assessor-collector of taxes may charge and deduct from payments to the hospital district fees for assessing and collecting the taxes at a rate of not more than one percent of the taxes assessed. Those fees shall be deposited in the officers salary fund of the county and reported as fees of the office of the county tax assessor-collector. Interest and penalties on taxes paid to the hospital district shall be the same as in the case of county taxes. Discounts shall be the same as allowed by the county. The residue of tax collections after deductions of discounts and fees for assessing and collecting shall be deposited in the district's depository. The bond of the county tax assessor-collector shall stand as security for the proper performance of his or her duties as assessor-collector of the district; or, if in the judgment of the district board of directors it is necessary, additional bond payable to the district may be required. In all matters pertaining to the assessment, collection, and enforcement of taxes for the district, the county tax assessor-collector shall be authorized to act in all respects according to the laws of the State of Texas relating to state and county taxes. With the approval of the commissioners court, the board may order the county tax assessor-collector to assess the property in the district at a specified percentage of fair market value that is different than that used for state and county purposes. The tax assessor-collector shall assess the property at that percentage until the board, with the approval of the commissioners court, orders a change in the percentage of fair market value used in assessing the property.

(c) Under this subsection, taxes shall be assessed and collected by a tax assessor-collector appointed by the directors, who shall also fix the term of his or her employment, compensation, and requirement for bond to assure the faithful performance of his or her duties, but in no event shall the bond be for less than \$5,000. The expense of the bond may be paid from district funds. The directors shall annually appoint five persons to serve as a board of equalization and shall fix their compensation. Each member of the board and the tax assessor and collector shall be residents of the district, and each shall have the same duties, including the obligation to execute the oath of office, as required of county officials exercising those powers and duties. Except as provided in this law to the contrary, all the provisions of Title 122, Revised Civil Statutes of Texas, 1925, as amended, shall apply to the district.

**SECTION 15. EMPLOYMENT BENEFITS.** The district may provide retirement benefits for district employees by electing to become a participating subdivision in the Texas County and District Retirement System, by creating and administering a public retirement system for the district, or by purchasing annuity contracts from an insurance or annuity company qualified and admitted to do business in this state. The district also may contract with the appropriate



agencies for programs of unemployment compensation and workers' compensation. If the board elects to pay contributions for unemployment compensation, the board shall pay contributions to the Texas Employment Commission in accordance with the Texas Unemployment Compensation Act, as amended (Article 5221b-1 et seq., Vernon's Texas Civil Statutes).

**SECTION 16. INDIGENT CARE.** Whenever a patient residing within the district is admitted to the facilities of the district, the administrator for the hospital to which the patient is admitted may have an inquiry made as to his or her circumstances and those of the relatives of the patient legally liable for his or her support. If the administrator finds that the patient or his or her relatives are able to pay for his or her care and treatment in whole or in part, an order shall be made directing the patient or his or her relatives to pay to the hospital district for the care and support of the patient a specified sum per week in proportion to financial ability. The administrator may collect those sums from the estate of the patient or his or her relatives legally liable for support in the manner provided by law for collection of expenses in the last illness of a deceased person. If the administrator finds that the patient or his or her relatives are not able to pay either in whole or in part for care and treatment in the hospital, they shall become a charge on the hospital district as to the amount of the inability to pay. Should there be a dispute as to the ability to pay or doubt in the mind of the administrator, the board shall hear and resolve the dispute and issue its final order after calling witnesses. Appeals from a final order of the board shall lie in the district court. The substantial evidence rule shall apply.

**SECTION 17. DONATIONS.** The board may accept on behalf of the district donations, gifts, and endowments to be held in trust for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by the donor consistent with proper management and object of the hospital district.

**SECTION 18. FACILITIES OF DISTRICT.** (a) Subject to other provisions of this Act, the board is given complete discretion as to the types, number, and locations of buildings required to establish and maintain an adequate hospital system. The hospital system may include domiciliary hospital care of the sick, wounded, and injured, outpatient clinics, dispensaries, geriatric domiciliary care, convalescent home facilities, necessary nurses, domiciliaries and training centers, blood banks, community health centers, and research centers or laboratories, and any other facilities deemed necessary for hospital and medical care by the board.

(b) The hospital transferred to the district by Jackson County shall be known as the "Mauritz Memorial Hospital."

(c) The district, through its board, may enter into an operating or management contract with any person regarding all or any of its hospitals or hospital system, and it may delegate to the administrator or the administrators of the respective hospitals the power to manage and operate all or any part of the hospital system and to employ and discharge employees or appoint and remove staff doctors pursuant to valid bylaws, rules, and regulations.

(d) The board may lease all or part of the facilities comprising the hospitals and/or medical system on terms and conditions it considers to be in the district's best interest. In connection with the lease, the board may delegate as it deems appropriate any of its powers to manage, control, and administer the leased facilities to furnish hospital and medical care. The provision of hospital and medical care at any leased facilities is subject to all applicable laws and all rules of the Texas Department of Health, the Texas Health Facilities Commission, or any other state or federal agency having jurisdiction. The facilities are subject to inspection by any authorized representative of any of

those agencies. If all or part of the district's facilities are leased, the lease shall require that the lessee charge rates for services rendered or goods provided at the leased premises that, together with other sources of the lessee's revenues, will produce revenues sufficient to enable the lessee to pay the expenses of operation and maintenance of the leased premises required of the lessee under the lease. The lease shall also require the lessee to pay lease rentals to the district that will be sufficient, when taken with any other sources of the district's estimated revenues which are pledged for the same purposes, to pay the interest on any revenue or special obligation bonds that are payable in whole or part from the lease rentals, to create and maintain a sinking fund to pay the principal of and premium, if any, on the bonds as they become due, to create and maintain a bond reserve fund and any other fund provided for in the bond order, resolution, or trust indenture authorizing the issuance of the bonds, and to pay all other charges, fees, costs, and expenses required to be paid by the lessee in accordance with the resolution or indenture. The lease, management agreement, bond resolution, or trust indenture may prescribe systems, methods, routines, procedures, and policies under which the facilities owned by the district shall be operated. A lease of a district hospital shall require the lessee to operate the hospital in a manner that complies with the requirements in this Act that would be applicable to the board if the board were operating the hospital.

SECTION 19. AFFAIRS OF DISTRICT. (a) The board shall have control over and management of all of the affairs of the district and the existing hospitals located therein, and shall employ or contract with persons, firms, partnerships, or corporations as deemed necessary or advisable by the board for the conduct of the affairs of the district, including, but not limited to, nurses, medical technicians, engineers, architects, attorneys, financial advisors, accountants, fiscal agents, a hospital administrator for the district or for each facility, bookkeepers, auditors, and secretaries. The district shall contract in the name of the district.

(b) The board shall determine the powers, authority, duties, term of employment, and compensation of all employees and consultants by contracts or by resolution or order of the board.

(c) Any employee's employment may be terminated by the board.

(d) The board may require a bond of any officer or employee payable to the district and conditioned on the faithful performance of his or her duties. The expense of any bond required of an officer or employee may be paid from district funds.

(e) The board shall adopt reasonable and necessary rules and bylaws to govern the proceedings and activities of the board and the hospitals or the hospital or medical system.

(f) The board may purchase all materials, supplies, equipment, and vehicles needed by the district.

(g) The board shall adopt a seal for the district.

(h) No director may receive compensation for his or her services as director, but, on approval by the board, a director may be reimbursed for travel or other expenses incurred on behalf of the district on presentation of a verified statement.

(i) As soon as practicable after a director is elected or appointed he or she shall execute a bond for \$5,000, payable to the district and conditioned on the faithful performance of his or her duties.

(j) The board shall approve all bonds of the directors, including the bonds of the temporary directors. The expense of the bonds may be paid from funds of the district.

(k) Each director shall take the oath of office prescribed by the Texas Constitution for public officers.

(l) Each director shall file the bond and oath with the board, to be retained in its records.

**SECTION 20. GENERAL POLICY.** After the creation of the district is confirmed at a district election as provided by Section 3 of this Act, the district shall assume the control of the hospitals transferred to it by Jackson County and the Edna Hospital District, and shall establish a hospital system as provided by Section 2 of this Act. The board shall provide for the administration, maintenance, and operation of both hospitals transferred to the district on its creation so as to furnish adequate hospital and medical care within the district and to ensure that each hospital is provided with sufficient funds, personnel, and equipment to the end that residents of the district have access to quality and competent health facilities; and no other municipality or political subdivision may levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of the district. The district shall assume full responsibility for providing medical and hospital care for its needy inhabitants. After creation of the district is confirmed at a district election, the district shall take over and there shall be transferred to it title to all land, buildings, improvements, permits, licenses, and certificates pertaining to the hospitals or hospital system which may be located wholly within the district and owned by either Jackson County or the Edna Hospital District.

**SECTION 21. RECOMMENDATIONS TO LEGISLATURE.** (a) The board may not recommend to the legislature legislation to amend this Act unless recommendation of that legislation is approved by seven directors.

(b) The board shall give notice of the date, hour, place, and subject of a meeting at which recommendation of legislation will be discussed. Notice of the meeting shall comply with Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), but the board shall furnish to the county clerk the notice required by Section 3A(g) of that Act at least 30 days before the date of the meeting. The notice shall be published in a newspaper of general circulation in the district once a week for four weeks, the first publication to appear at least 30 days before the date of the meeting.

**SECTION 22. STATE APPROPRIATIONS.** The support and maintenance of a hospital district created under this Act shall never become a charge against or obligation of the State of Texas, nor shall any direct appropriation be made by the legislature for the construction, maintenance, or improvement of any of the facilities of the district.

**SECTION 23. TAX STATUS OF DISTRICT BONDS.** In carrying out the purposes of this Act, a district created under this Act will be performing an essential public function, and any bonds issued by it and their transfer and issuance by the district, including any profits made in the sale of the bonds, shall at all times be free from taxation by the state or any municipality or political subdivision of the state.

**SECTION 24. REPEALER.** On the date that the Jackson County Hospital District is created by this Act, Chapter 172, Acts of the 60th Legislature, Regular Session, 1967, is repealed.

**SECTION 25. SHORT TITLE.** This Act may be cited as the Jackson County Hospital District Act.

**SECTION 26. NOTICE.** The legislature finds publication of the notice required in the enactment of this Act under the provisions of Article IX, Section 9, of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws.

**SECTION 27. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted.

On motion of Senator Patman and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

**S.B. 1308** (Price) Relating to creation of a juvenile board in each of the counties of Wheeler, Hemphill, Roberts and Lipscomb. (31-0)

**S.B. 1314** (Longoria) Relating to application of the statute of limitations to sums or property required to be reported and paid to the State Treasurer's Office under the escheat statutes. (31-0)

**S.B. 1316** (McKnight) Relating to squirrel hunting in Upshur County. (31-0)

**S.B. 1319** (Parker) Relating to sea trout in Chambers County. (31-0)

**S.B. 1320** (Parker) Relating to exemptions under the nepotism law. (31-0)

**C.S.S.C.R. 87** (Brooks) Requesting the Texas Department of Human Resources and the Texas Department of Health to conduct a study of nursing staff manpower pools. (vv)

**C.S.S.R. 196** (Truan) Creating a special interim committee to study educational programs for children of migrant farm workers. (vv)

**S.R. 565** (Longoria) Authorizing interim study on use of gasohol. (vv)

**S.R. 553** (Schwartz) Charging the Coastal and Marine Council with the preparation of a compilation of coastal concerns. (vv)

**H.B. 8** (Meier) Relating to the authority of a teacher to remove an incorrigible student. (31-0)

**H.B. 52** (Farabee) Relating to exemptions from jury service. (31-0)

**H.B. 257** (Price) Relating to investment of funds of soil and water conservation districts. (31-0)

**H.B. 383** (Truan) Relating to the taking of blue crabs. (31-0)

**C.S.H.B. 452** (Harris) Relating to increasing insurance rates on being fined for failure to appear. (31-0)

**H.B. 461** (Meier) Relating to the authority to create municipal courts of records in the City of Fort Worth and prescribing the appeals from the municipal courts of record. (31-0)

**H.B. 561** (Kothmann) Relating to the jurisdiction of the County Court at Law No. 2 in Bexar County. (31-0)

**H.B. 467** (Farabee) Relating to the appointment of masters to hear certain child custody and support cases.

Senator Mauzy offered the following amendment to the bill:

Amend HB 467 by adding a new Section 13 to read as follows, and to renumber all succeeding sections accordingly:

"In the event of the passage of SB 785 and HB 467 the provisions of SB 785 shall apply to the district courts in Dallas County."

The amendment was read and was adopted.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

**H.B. 471** (Brooks) Relating to the number of required blood tests in paternity suits. (31-0)

**H.B. 658** (Doggett) Creating the County Court at Law No. 4 of Travis County. (31-0)

**C.S.H.B. 679** (Longoria) Relating to a three-member or five-member board of trustees for certain independent school districts. (31-0)

**H.B. 760** (Moore) Relating to the methods of catching certain fresh water fish. (31-0)

**H.B. 848** (Snelson) Relating to membership in Teacher Retirement System by participants in the optional retirement program. (31-0)

**H.B. 792** (Creighton) Relating to speed limits on private roads in unincorporated areas. (31-0)

**H.B. 956** (Traeger) Relating to the authority of the Texas Historical Commission to make grants to museums honoring firefighters. (31-0)

**H.B. 961** (Creighton) Relating to the creation of the constitutional office of criminal district attorney of Denton County. (31-0)

**H.B. 1001** (Schwartz) Relating to inclusion of certain information in driving records of police officers and firemen. (31-0)

**H.B. 1030** (Jones of Taylor) Relating to delivery of institution of higher education fiscal reports to certain legislative committees. (31-0)

**H.B. 1042** (McKnight) Authorizing municipal courts of record in the City of Longview. (31-0)

**H.B. 1056** (Truan) Relating to officers who may take possession of abandoned vehicles. (31-0)

**H.B. 1082** (Mauzy) Relating to self-insurance by cities or towns for peace officers and firefighters.

Senator Mauzy offered the following amendment to the bill:

Amend HB 1082 by striking everything above "A BILL TO BE ENTITLED AN ACT" and substituting the following:

relating to agreements between local governments to provide all forms of insurance including self-insurance; providing that said self-insurance shall not be considered insurance for the purpose of any other statute of this state and not subject to the regulations of the State Board of Insurance; and declaring an emergency.

The amendment was read and was adopted.

Senator Mauzy offered the following amendment to the bill:

Amend HB 1082 by striking everything below the enacting clause and substituting the following:

SECTION 1. Sections 3 and 4, Interlocal Cooperation Act, as amended (Article 4413(32c), Vernon's Texas Civil Statutes), are amended to read as follows:

"Definitions

"Section 3. As used in this Act:

"(1) 'local government' means a county; a home rule city or a city, village, or town organized under the general laws of this state; a special district; a school district; a junior college district; any other legally constituted political subdivision of the State of Texas or any adjoining state; or a combination of political subdivisions.

"(2) 'governmental functions and services' means all or part of any function or service included within the following general areas: police protection and detention services; fire protection; streets, roads, and drainage; public health and welfare; parks; recreation; library services; museum services; waste disposal; planning; engineering; administrative functions; all forms of insurance including self-insurance of any risk; and such other governmental functions which are of mutual concern to the contracting parties.

"(3) 'administrative functions' means functions normally associated with the routine operation of government such as tax assessment and collection, personnel services, purchasing, data processing, warehousing, equipment repair, and printing.

"Authority to make interlocal contracts and agreements

"Section 4. (a) Any local government may contract or agree with one or more local governments to perform governmental functions and services under terms of this Act.

"(b) The agreements or contracts may be for the purpose of studying the feasibility of contractual performance of any governmental functions or services or may be for the performance of any governmental functions or services which all parties to the contract are legally authorized to perform, provided such contracts or agreements shall be duly authorized by the governing body of each party to the contract or agreement. An interlocal contract or agreement shall state the purpose, terms, rights, objectives, duties, and responsibilities of the contracting parties. Interlocal contracts and agreements may be renewed annually and shall specify that the party or parties paying for the performance of governmental functions or services shall make payments therefor from current revenues available to the paying party.

"(c) The authority of a political subdivision to perform a contractual service includes the authority to apply the rules, regulations, and ordinances of

either the subdivision receiving the service or of the subdivision providing the service, whichever standard may be agreed upon by the contracting political subdivisions.

“(d) The contracting parties to any interlocal contract or agreement shall have full authority to create an administrative agency or designate an existing political subdivision for the supervision of performance of an interlocal contract or agreement and any administrative agency so created or political subdivision so designated shall have the authority to employ personnel and engage in other administrative activities and provide other administrative services necessary to execute the terms of any interlocal contract or agreement. For purposes of this Act any body politic and corporate organized under the laws of this state shall be considered a political subdivision.

“(e) The contracting parties to any interlocal contract or agreement shall have full authority to contract with state departments and agencies as defined in Article 4413(32), Vernon's Texas Civil Statutes, or any similar department or agency of an adjoining state. The contracting parties to interlocal contract or agreement shall have specific authority to contract with the Department of Corrections for the construction, operation and maintenance of a regional correctional facility provided that title to the land on which said facility is to be constructed is deeded to the Department of Corrections and provided further that a contract is executed by and between all the parties as to payment for the housing, maintenance and rehabilitative treatment of persons held in jails who cannot otherwise be transferred under authority of existing statutes to the direct responsibility of the Department of Corrections.

“(f) No person acting under an interlocal contract or agreement shall be deemed to be holding more than one office of honor, trust, or profit or more than one civil office of emolument.

“(g) When governmental units enter a contract or agreement for the furnishing of fire protection services, any civil liability related to the furnishing of those services is the responsibility of the governmental unit which would be responsible for furnishing the services absent the contract or agreement.

“(h)(1) By resolution of the governing body, a political subdivision of the state may contract with other political subdivisions of the state to participate in the ownership, construction, and operation of a regional jail facility. The regional jail shall be located within the geographic boundaries of one of the participating political subdivisions, but the regional jail need not be located in a county seat.

“(2) Prior to acquisition and construction of the regional jail facility, bonds to finance the acquisition and construction of the facility shall be issued by the participating subdivisions in the manner prescribed by law for issuance of permanent improvement bonds.

“(3) The participating political subdivisions may establish by agreement that the police chief or sheriff of the political subdivision in which the regional jail is located shall be appointed as jailer of the facility and shall have authority to supervise the operation and maintenance of the jail, that a committee composed of the sheriff or police chief of each participating political subdivision may be established to appoint a jailer to supervise the maintenance and operation of the jail, or that each police chief or sheriff may continue the supervision and responsibility over the prisoners he has incarcerated in the regional jail facility. The participating political subdivisions may also employ or authorize the jailer to employ additional personnel necessary to operate and maintain the facility.

“(4) When an agreement is established pursuant to Subdivision (3) of this subsection, prisoners incarcerated in the regional jail shall be under the supervision of the person designated to have responsibility for the supervision of

the regional jail. If a prisoner is transferred back to the originating political subdivision from a regional jail, the appropriate law enforcement official in the originating political subdivision shall assume supervision and responsibility for the prisoner.

“(5) While a prisoner is incarcerated in a regional jail facility, a sheriff or police chief not assigned to supervise the regional jail is not liable for the escape of the prisoner or for any injury or damage caused by or to the prisoner unless the escape, injury, or damage is directly caused by the sheriff or police chief.

“(6) A jailer in charge of a regional jail and any assistant jailers he may employ must be commissioned peace officers.

“(i) When governmental units enter a contract or agreement establishing a fund for self-insurance, it shall not be considered insurance for the purpose of any other statute of this state and shall not be subject to the regulations of the State Board of Insurance.”

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted. (31-0)

**H.B. 1123** (Brooks) Relating to granting power of eminent domain to Texas Southern University Board of Regents. (31-0)

**H.B. 1135** (Parker) Relating to presence of defendant in criminal prosecutions. (31-0)

**H.B. 1137** (McKnight) Relating to creation of County Court at Law No. 2 of Collin County. (31-0)

**H.B. 1147** (Vale) Relating to creditable service as elective state official in Employees Retirement System. (30-1) Farabee “Nay”

**H.B. 1168** (Parker) Relating to number of hours policeman may work per week. (30-1) Short “Nay”

**H.B. 1228** (Moore) Relating to authority of Texas Employment Commission to sell certain state-owned land. (31-0)

**H.B. 1262** (Blake) Relating to creation of Rayburn Municipal Utility District. (31-0)

**H.B. 1323** (Andujar) Relating to control and eradication of rabies.

Senator Andujar offered the following committee amendment to the bill:

Amend HB 1323 by striking SECTION 6(a) in its entirety and replacing it with the following:

“SECTION 6. VACCINATION REQUIRED. (a) Except as otherwise provided by rule of the board, the owner of each dog or cat shall have the dog or cat vaccinated against rabies by the time the dog or cat is four months of age and at regular intervals thereafter as prescribed by rule of the board.”



The committee amendment was read and was adopted.

Senator Andujar offered the following committee amendment to the bill:

Amend HB 1323 by striking SECTION 10 in its entirety and renumbering the following Sections accordingly.

The committee amendment was read and was adopted.

On motion of Senator Andujar and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

**H.B. 1340** (Blake) Relating to zoning by general law cities. (31-0)

**H.B. 1429** (Howard) Changing name of Texas Library and Historical Commission to Texas State Library and Archives Commission. (31-0)

**H.B. 1453** (Price) Relating to compensation of directors of Green Belt Municipal and Industrial Water Authority. (31-0)

**H.B. 1469** (Howard) Relating to education incentive pay for certain emergency medical personnel. (31-0)

**C.S.H.B. 1484** (Jones of Taylor) Relating to investments by certain insurers in bonds or other interest-bearing evidences of debts of municipally owned revenue electric utility company. (31-0)

**H.B. 1499** (Jones of Harris) Relating to purchase of school sites and construction of school buildings by certain independent school districts. (31-0)

**H.B. 1530** (Andujar) Relating to home production of wine. (31-0)

**H.B. 1547** (Harris) Relating to sale of beer purchased for sale at festival or civil celebration. (31-0)

**H.B. 1554** (Williams) Relating to purchase and sale of land by Veterans Land Board. (31-0)

**H.B. 1571** (Parker) Relating to notice of receipt and execution of mandate of Court of Criminal Appeals. (31-0)

**H.B. 1628** (Blake) Relating to Nursing Home Life Safety Code.

Senator Blake offered the following committee amendment to the bill:

Amend **H.B. 1628** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Chapter 413 Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), is amended by adding Section 4A to read as follows:

Sec. 4A. FIRE SAFETY REQUIREMENTS. (a) The licensing agency shall require all nursing homes and custodial care homes and major additions over \$100,000 to existing nursing homes and custodial care homes which are approved for construction or conversion after September 1, 1979, to comply with the 1976 edition of the code for Safety to Life from Fire in Buildings and Structures, known as the Life Safety Code (Pamphlet No. 101) of the National Fire Protection Association.

(b) After September 1, 1979, those building sections of a licensed nursing home or custodial care home, regardless of ownership, which have complied with or without waiver, with either the 1967 or 1973 edition of the Life Safety Code of the National Fire Protection Association will be recognized as meeting licensing requirements for fire safety as long as they continue to be in substantial compliance with either the 1967 or 1973 code edition.

(c) The requirements of this section do not preclude an institution from conforming to a higher or additional fire safety standard or provision where required by Federal law or regulation. Where provisions of this section conflict with federal laws or regulations adopted after September 1, 1979, then the federal requirements prevail, if required for participation in federal programs.

(d) As provided in the 1976 edition of the Life Safety Code, the licensing agency shall have discretionary powers to grant exceptions to the code under certain conditions or in the interest of common and uniform applicability.

(e) Fire safety requirements for institutions other than nursing homes or custodial care homes shall be as determined by the licensing agency.

SECTION 2. This Act takes effect September 1, 1979.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The committee amendment was read and was adopted.

On motion of Senator Blake and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

**C.S.H.B. 1647** (Schwartz) Relating to ownership and operation of port and harbor facilities. (31-0)

**H.B. 1658** (Snelson) Relating to reorganization of 33rd, 198th and 216th Judicial Districts. (31-0)

**H.B. 1677** (Jones of Harris) Relating to branch offices for absentee voting. (31-0)

**C.S.H.B. 1740** (Harris) Relating to administration and enforcement of Alcoholic Beverage Code.

Senator Jones of Harris offered the following amendment to the bill:

AMEND C.S.H.B. No. 1740 by striking the words "except that this subsection (b) does not apply to a holder of or any renewal of a distributor's license which was in effect on January 1, 1953" as the same appear on lines 26, 27 and 28, Page 18, of C.S.H.B. No. 1740.

The amendment was read and was adopted.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

**H.B. 1772** (Mengden) Relating to time at which Real Estate Commission performs character checks on applicants for licenses. (31-0)

**H.B. 1774** (Jones of Harris) Relating to bond and errors and omissions insurance for county clerks and their deputies and employees. (31-0)

**H.B. 1808** (Jones of Taylor) Relating to annexation by city of municipally owned airport. (31-0)

**H.B. 1812** (Traeger) Relating to state's right of recovery from third party for costs of medical assistance. (31-0)

**H.B. 1905** (Parker) Relating to establishment of county industrial commissions. (31-0)

**H.B. 1921** (Traeger) Repealing oleo margarine law. (31-0)

**H.B. 1926** (Snelson) Relating to reorganization of 112th Judicial District. (31-0)

**H.B. 1950** (McKnight) Relating to creation of County Court at Law of Gregg County. (31-0)

**H.B. 1957** (Harris) Relating to reinsurance by life, health and accident companies. (31-0)

**H.B. 1974** (Schwartz) Relating to annexation agreements between cities and municipal utility districts.

Senator Jones of Harris offered the following amendment to the bill:

Amend **H.B. 1974** by inserting the following after "(h) A city" on line 3, page 3 of Section 4; "with a population of 1,000,000 or less"

The amendment was read and was adopted.

On motion of Senator Schwartz and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

**H.B. 1989** (Brooks) Relating to governmental status and tort liability of mental health and mental retardation centers. (31-0)

**H.B. 2025** (Traeger) Relating to witnessing applications for absentee ballots. (31-0)

**H.B. 2040** (Jones of Taylor) Relating to acquisition of errors and omission policies by certain insurance agents; providing widows and children may share in profits of certain insurance agencies. (31-0)

**H.B. 2046** (Parker) Relating to nutria. (31-0)

**H.B. 2062** (Farabee) Relating to Texas Board of Examiners in Fitting and Dispensing of Hearing Aids. (31-0)

**H.B. 2118** (Brooks) Relating to spiritual advisors for persons on death row.

Senator Brooks offered the following committee amendment to the bill:

Amend Section 1 of HB 2118 as follows:

1. Strike the comma between the words “relatives” and “friends” and insert the word “and” in lieu thereof,
2. Strike the words “and spiritual advisors,”
3. Strike the word, “he” and substitute the word “the condemned person,”
4. Add the words “or her” after the word “his” wherever it appears,
5. Add the words “or her” after the word “him” wherever it appears.

The committee amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

**H.B. 2158** (Schwartz) Relating to taking of sand, shell, mud shell, marl and gravel from Brown Cedar Cut. (31-0)

**H.B. 2165** (Vale) Relating to authority to order detention of child for willful violation of compulsory school attendance law. (30-1) Doggett “Nay”

**H.B. 2167** (Moore) Relating to approval by commissioners court of Houston County of hunting and fishing regulations. (31-0)

**H.B. 2168** (Schwartz) Relating to compensation of commissioners of Brazoria County Conservation and Reclamation District No. 3. (31-0)

**H.B. 2171** (Howard) Relating to creation of Bois D’Arc Municipal Utility District of Fannin County. (31-0)

**H.B. 2173** (Howard) Relating to Grayson County Juvenile Board. (31-0)

**H.B. 2174** (Price) Relating to creation of Hemphill County Hospital District. (31-0)

**H.B. 2176** (Traeger) Relating to creation of County Court at Law of Medina County. (31-0)

**H.B. 2180** (Traeger) Relating to fishing in Live Oak County. (31-0)

**H.B. 2181** (Traeger) Relating to creation of game sanctuary in Live Oak County. (31-0)

**H.B. 2186** (Doggett) Relating to the approval of the Commissioners Court of Hays County of hunting and fishing regulations. (31-0)

**H.B. 2187** (Doggett) Relating to jurisdiction of County Court at Law of Hays County. (31-0)

**H.B. 2189** (Moore) Relating to fishing in Grimes County. (31-0)

**H.B. 2197** (McKnight) Relating to certain open seasons for taking of animals and birds in Rains County. (31-0)

**H.B. 2199** (Schwartz) Relating to open season for raccoon hunting in Brazoria County. (31-0)

**H.B. 2204** (Truan) Relating to creation of Beeville Water Supply District. (31-0)

**H.B. 2211** (Traeger) Relating to applicability of Uniform Wildlife Regulatory Act in LaSalle County. (31-0)

**H.B. 2212** (Clower) Relating to administration and validation of acts of Ellis County Water Control and Improvement District No. 1. (31-0)

**H.B. 2213** (Schwartz) Relating to maintaining records for Brazos River Harbor Navigation District. (31-0)

**H.B. 2222** (Jones of Taylor) Establishing Coryell City Water Supply District. (31-0)

**H.B. 2223** (Truan) Relating to creation of South Texas Water Authority. (31-0)

**H.B. 2226** (Longoria) Relating to creation of County Court at Law No. 2 of Cameron County. (31-0)

**H.B. 2238** (Patman) Relating to compensation of directors of Bell County Water Control and Improvement District No. 3. (31-0)

**H.B. 2241** (Snelson) Relating to exotic animals in Kerr County. (31-0)

**H.B. 2252** (Short) Relating to authority of Terry County Hospital District to sell land. (31-0)

**H.C.R. 27** (Jones of Harris) Directing Board of Control to install women's restroom on fourth floor of Capitol. (vv)

**H.C.R. 54** (McKnight) Directing Board of Control to erect on Capitol grounds memorial to Texans who lost their lives in Korean and Vietnam wars. (vv)

**C.S.H.C.R. 74** (Mengden) Proclaiming nine-banded armadillo as official mammal of State of Texas. (vv)

**H.C.R. 127** (Harris) Commending H. Ross Perot. (vv) Parker "Nay"

**H.C.R. 138** (Jones of Harris) Authorizing Board of Control to construct steps at west entrance of Capitol. (vv)

**H.C.R. 139** (Meier) Granting Dahlstrom Corporation permission to sue the State of Texas. (vv)

**H.C.R. 140** (Meier) Granting Dahlstrom Corporation permission to sue the State of Texas. (vv)

**H.C.R. 141** (Meier) Granting Dahlstrom Corporation permission to sue the State of Texas. (vv)

**H.C.R. 142** (Meier) Granting Dahlstrom Corporation permission to sue the State of Texas. (vv)

**H.C.R. 143** (Meier) Granting Dahlstrom Corporation permission to sue the State of Texas. (vv)

**H.C.R. 144** (Meier) Granting Dahlstrom Corporation permission to sue the State of Texas. (vv)

**H.C.R. 145** (Meier) Granting Dahlstrom Corporation permission to sue the State of Texas. (vv)

**H.C.R. 153** (Meier) Encouraging all state agencies delivering human services to expand volunteer programs to include the elderly and the disabled. (vv)

**H.C.R. 174** (Meier) Granting Austin Bridge Company permission to sue the State of Texas. (vv)

**H.C.R. 185** (Traeger) Granting Alicia Benefield permission to sue the State of Texas. (vv)

**H.C.R. 191** (Jones of Harris) Expressing support for human rights, religious liberty and freedom of emigration regarding Soviet Jews. (vv)

**H.B. 2253** (Patman) Relating to creation of County Court at Law No. 2 of Victoria County. (31-0)

**H.B. 2182** (Schwartz) Relating to the Community Hospital District of Brazoria County. (31-0)

#### **BILLS REMOVED FROM LOCAL AND UNCONTESTED BILLS CALENDAR**

Bill No.	Senators Objecting
<b>C.S.S.B. 215</b>	Mauzy, Patman, Schwartz
<b>S.B. 410</b>	Mauzy, Patman, Schwartz
<b>H.B. 1362</b>	Mauzy, Jones of Harris
<b>H.B. 1773</b>	Mauzy, Doggett
<b>H.B. 1794</b>	Mauzy, Jones of Harris
<b>H.C.R. 93</b>	Mauzy, Jones of Harris

#### **CONCLUSION OF SESSION FOR LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer (Senator Jones of Harris in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

**RECESS**

On motion of Senator Farabee the Senate at 2:05 o'clock p.m. recessed until 2:30 o'clock p.m. today.

**AFTER RECESS**

The Senate met at 2:30 o'clock p.m. and was called to order by the President.

**REPORT OF STANDING COMMITTEE**

By unanimous consent, Senator Schwartz submitted the following report for the Committee on Natural Resources:

**H.B. 1719**  
**H.B. 165**  
**H.B. 2268**  
**C.S.H.B. 1872** (Read first time)  
**H.B. 2243**  
**H.B. 448**  
**H.B. 2265**  
**H.B. 2237**  
**H.B. 2240**  
**H.B. 2205**  
**H.B. 1699**  
**H.B. 1890**  
**S.B. 311**  
**C.S.S.B. 1321** (Read first time)  
**H.B. 233**  
**H.B. 1738** (Amended)  
**H.B. 63**

**BILLS ORDERED NOT PRINTED**

On motion of Senator Schwartz and by unanimous consent, the following bills were ordered not printed:

**H.B. 1719**  
**H.B. 165**  
**H.B. 2268**  
**C.S.H.B. 1872**  
**H.B. 2243**  
**H.B. 448**  
**H.B. 2265**  
**H.B. 2237**  
**H.B. 2240**  
**H.B. 1738**

**HOUSE RESOLUTIONS ON FIRST READING**

The following resolutions received from the House were read the first time and referred to the Committee indicated:

**H.C.R. 200**, To Committee on Administration.  
**H.C.R. 213**, To Committee on Administration.  
**H.C.R. 211**, To Committee on Administration  
**H.C.R. 101**, To Committee on Administration.  
**H.C.R. 100**, To Committee on Administration.

### RESOLUTION ON FIRST READING

On motion of Senator Ogg and by unanimous consent, the following resolution was introduced, read first time and referred to the Committee indicated:

**S.R. 647** by Ogg Administration  
Establishing a special interim committee to study charitable organizations.

### HOUSE BILL 38 ON SECOND READING

On motion of Senator Mauzy and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 38**, Relating to guaranteed student loans.

The bill was read second time.

Senator Mauzy offered the following committee amendment to the bill:

Amend **H.B. 38** by adding thereto a new Section 57.51 to read as follows:

"Sec. 57.51. TRANSITION PROVISION. (a) For the purpose of this section, 'authorities' means educational authorities or corporations created or established pursuant to Sec. 53.47 of the Texas Education Code which participate in the student loan program under the Higher Education Act of 1965, as amended.

"(b) It is recognized that there are authorities which may have issued bonds prior to May 15, 1979, for the purpose of acquiring federally insured student loans and which authorities may have unexpended bond proceeds, from issues sold prior to May 15, 1979, at the time the corporation begins guaranteeing student loans. To maximize the availability of funds for student loans and to protect the fiscal integrity of the authorities, the corporation shall cooperate with the United States Commissioner of Education and the authorities to provide for the continued acquisition of federally insured student loans by the authorities to the extent of the unexpended bond proceeds of the authorities from issues sold prior to May 15, 1979, after the corporation begins guaranteeing loans, provided such continued acquisition does not threaten the fiscal integrity of the guarantee program of the corporation."

The committee amendment was read.

Senator Mauzy offered the following substitute for the committee amendment:

Amend **H.B. 38**, as amended by striking Section 57.51 and substituting in lieu thereof the following:

"Sec. 57.51. TRANSITION PROVISION. (a) For the purpose of this section, 'authorities' means educational authorities or corporations created or



established pursuant to Sec. 53.47 of the Texas Education Code which participate in the student loan program under the Higher Education Act of 1965, as amended.

“(b) It is recognized that there are authorities which may have issued bonds prior to May 15, 1979, for the purpose of acquiring federally insured student loans and which authorities may have unexpended bond proceeds, from issues sold prior to May 15, 1979, at the time the corporation begins guaranteeing student loans. To maximize the availability of funds for student loans and to protect the fiscal integrity of the authorities, the authorities shall be allowed to continue to acquire federally insured loans to the extent of the unexpended bond proceeds of the authorities from issues sold prior to May 15, 1979, until the date that the corporation begins guaranteeing loans. However, the authorities shall not issue bonds for the sole purpose of purchasing federally insured loans after May 15, 1979.

“(c) This section expires on the day that the corporation becomes liable for the guarantee of a loan under this chapter.”

The substitute for the committee amendment was read and adopted.

The committee amendment as substituted was then adopted.

On motion of Senator Mauzy and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### **HOUSE BILL 38 ON THIRD READING**

Senator Mauzy moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 38** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Harris.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

#### **VOTE ON FINAL PASSAGE OF HOUSE BILL 1499 RECONSIDERED**

On motion of Senator Moore the vote by which **H.B. 1499** was finally passed was reconsidered by the following vote: Yeas 20, Nays 9.

Yeas: Andujar, Blake, Braecklein, Creighton, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Longoria, McKnight, Mengden, Moore, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Vale.

Nays: Brooks, Clower, Doggett, Jones of Harris, Mauzy, Parker, Patman, Truan, Williams.

Absent: Meier, Ogg.

Question - Shall **H.B. 1499** be finally passed?

The bill was then again finally passed by the following vote: Yeas 27, Nays 3.

Yeas: Andujar, Blake, Braccklein, Brooks, Clower, Creighton, Doggett, Farabee, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, Mengden, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Tracger, Truan, Vale, Williams.

Nays: Harris, McKnight, Moore.

Absent: Meier.

#### **HOUSE BILL 1811 ON SECOND READING**

On motion of Senator Longoria and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1811**, Relating to the pay of grand and petit jurors.

The bill was read second time.

Senator Longoria offered the following amendment to the bill:

Amend House Bill No. 1811 by striking the figures "\$10" where it appears in the first sentence of Subsection (a) and substituting in lieu thereof the figures "\$6".

The amendment was read and was adopted.

On motion of Senator Longoria and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### **HOUSE BILL 1811 ON THIRD READING**

Senator Longoria moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1811** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Meier.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE HOUSE BILL 41  
ON SECOND READING**

On motion of Senator Short and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading

**C.S.H.B. 41**, Relating to legal rate of interest on open accounts.

The bill was read second time.

Senator Mauzy offered the following amendment to the bill:

Amend CSHB 41 by striking the word "nine" on line 16 and substituting the word "six" therefor.

The amendment was read and was adopted.

**RECORD OF VOTE**

Senator Ogg asked to be recorded as voting "Nay" on the adoption of the amendment.

On motion of Senator Short and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

**COMMITTEE SUBSTITUTE HOUSE BILL 41 ON THIRD READING**

Senator Short moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 41** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Creighton, Meier.

The bill was read third time and was passed.

**COMMITTEE APPOINTED**

Pursuant to the provisions of **S.R. 565**, the President announced the appointment of the following committee: Senators Longoria, Chairman; Traeger, Short, Kothmann and Price.

**HOUSE BILL 2091 ON SECOND READING**

Senator Farabee asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**H.B. 2091**, Relating to search warrants to search for and seize property or items located in a news media office.

There was objection.

Senator Farabee then moved to suspend the regular order of business and take up **H.B. 2091** for consideration at this time.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Mauzy.

Absent: Creighton, Meier.

The bill was read second time and was passed to third reading.

#### **RECORD OF VOTE**

Senator Mauzy asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### **HOUSE BILL 2091 ON THIRD READING**

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2091** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1. (Same as previous roll call)

The bill was read third time and was passed.

#### **RECORD OF VOTE**

Senator Mauzy asked to be recorded as voting "Nay" on the final passage of the bill.

#### **HOUSE BILL 635 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 635**, Relating to the regulation of lay midwifery and providing penalties.

The bill was read second time and was passed to third reading.

#### **HOUSE BILL 635 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 635** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Creighton, Meier.

The bill was read third time and was passed.

### HOUSE BILL 442 ON SECOND READING

Senator Andujar asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**H.B. 442**, Relating to the civil service system in certain counties.

There was objection.

Senator Andujar then moved to suspend the regular order of business and take up **H.B. 442** for consideration at this time.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Snelson, Traeger, Truan, Williams.

Nays: Vale.

Absent: Jones of Harris, Meier, Short.

The bill was read second time.

Senator Andujar offered the following amendment to the bill:

Amend H.B. No. 442 by striking all below the enacting clause and substituting the following:

SECTION 1. Sections 1(3) and (4), Chapter 262, Acts of the 62nd Legislature, Regular Session, 1971 (Article 2372h-6, Vernon's Texas Civil Statutes), are amended to read as follows:

(3) "Employee" means any person who obtains his position by appointment and who is not authorized by statute to perform governmental functions in his own right involving some exercise of discretion or any person added to coverage of the county civil service system by Section 3A of this Act, but does not include a holder of an office the term of which is limited by the Constitution of the State of Texas.

(4) "Department" means any county, district, or precinct office or officer or other agency or board [of the county] which has jurisdiction and control of the activities of the employees' official duties.

SECTION 2. Section 8(a), Chapter 262, Acts of the 62nd Legislature, Regular Session, 1971 (Article 2372h-6, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Except as provided by Section 8A of this Act, the [The] commission shall make, publish, and enforce rules, consistent with the purposes of this Act, relating to:

- (1) selection and classification of county employees;
- (2) competitive examinations;
- (3) promotions, seniority, and tenure;
- (4) layoffs and dismissals;

- (5) disciplinary actions;
- (6) grievance procedures and other procedural and substantive rights of employees; and
- (7) other matters having to do with selection of employees and their advancement, rights, benefits, and working conditions.

SECTION 3. Section 10(b), Chapter 262, Acts of the 62nd Legislature, Regular Session, 1971 (Article 2372h-6, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Nothing in this Act applies to:

- (1) licensed [assistant district] attorneys~~[- investigators, or other employees of the district attorney];~~
- (2) the official shorthand reporter of any ~~[district or criminal district]~~ court; or
- (3) any elected or appointed officer under the constitution.

SECTION 4. Chapter 262, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 2372h-6, Vernon's Texas Civil Statutes), is amended by adding Sections 3A and 8A to read as follows:

Sec. 3A. EXPANDED COVERAGE OF THE COUNTY CIVIL SERVICE SYSTEM. The existing county civil service systems under this Act on the effective date of this section shall be expanded to cover the adult and juvenile probation officers and their assistants, personnel in the county auditor's office including all assistant county auditors, and any other employees of the county not already included in the system and not specifically exempt under this Act.

Sec. 8A. EMPLOYMENT BY DEPARTMENTS. (a) The head of each department covered by the county civil service system may assume responsibility for selecting all persons who are to be employees of that department.

(b) A person employed by a department as provided by Subsection (a) of this section shall serve as a probationary employee during the first six months after his selection and shall not be covered by the county civil service system during that six-month period. At the end of the six-month period the person may be terminated or made a permanent employee by the head of the department.

(c) On becoming a permanent employee, a person shall come under the coverage of the county civil service system and shall be fully entitled to all benefits of and subject to all obligations imposed by the county civil service system.

(d) This section does not affect the status of any person who is an employee of a department under a county civil service system on the effective date of this section.

(e) The rules adopted by the commission under Section 8 of this Act relating to the selection and classification of county employees and to competitive examinations for selection do not apply to the initial hiring of personnel under this section.

SECTION 5. Any person covered by an existing county civil service system on the effective date of this Act who would be exempt from coverage of the system by the amendments in this Act to Section 10(b), Chapter 262, Acts of the 62nd Legislature, Regular Session, 1971 (Article 2372h-6, Vernon's Texas Civil Statutes), may, on written request to the civil service commission, remain a member of the system.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted.

On motion of Senator Andujar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by the following vote: Yeas 24, Nays 4, Present-Not voting 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Kothmann, Longoria, McKnight, Meier, Mengden, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Williams.

Nays: Jones of Taylor, Mauzy, Truan, Vale.

Present-Not voting: Snelson.

Absent: Jones of Harris, Moore.

#### **HOUSE BILL 442 ON THIRD READING**

Senator Andujar moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 442** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Kothmann, Longoria, McKnight, Meier, Mengden, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Williams.

Nays: Jones of Taylor, Mauzy, Vale.

Absent: Moore.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 4, Present-Not voting 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Kothmann, Longoria, McKnight, Meier, Mengden, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Williams.

Nays: Jones of Taylor, Mauzy, Truan, Vale.

Present-Not voting: Snelson.

Absent: Moore.

#### **HOUSE BILL 882 ON SECOND READING**

Senator Harris asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**H.B. 882**, Relating to salaries, compensation, and emoluments paid by certain domestic insurance companies.

There was objection.

Senator Harris then moved to suspend the regular order of business and take up **H.B. 882** for consideration at this time.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Vale, Williams.

Nays: Mauzy, Patman, Truan.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Amend Section 1 of House Bill 882 by striking paragraph (a) of Article 3.12, Insurance Code, and substituting in its place the following:

“(a) No ‘domestic’ company shall pay any salary, compensation or emolument ~~to any officer, trustee, or director thereof, nor any salary, compensation or emolument~~ which, together with any salary, compensation or emolument from an affiliated ‘domestic’ company, amounts ~~(ing)~~ in any year to more than ~~Twenty Thousand Dollars (\$20,000)~~ Fifty Thousand Dollars (\$50,000) to any officer, trustee or director thereof, or to any person, firm or corporation, unless such payment be first authorized by a vote of the board of directors of such company, or by a committee of such board charged with the duty of authorizing such payments. The limitation as to time contained herein shall not be construed as preventing any ‘domestic’ company from entering into contracts with its agents for the payment of renewal commissions.”

The amendment was read and was adopted.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### **HOUSE BILL 882 ON THIRD READING**

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 882** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Mauzy, Patman.



The bill was read third time and was passed.

### **BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

<b>H.C.R. 187</b>	<b>S.B. 10</b>	<b>S.B. 632</b>
<b>H.C.R. 214</b>	<b>S.B. 41</b>	<b>S.B. 636</b>
<b>H.C.R. 218</b>	<b>S.B. 54</b>	<b>S.B. 747</b>
<b>H.B. 304</b>	<b>S.B. 108</b>	<b>S.B. 754</b>
<b>H.B. 306</b>	<b>S.B. 267</b>	<b>S.B. 763</b>
<b>H.B. 860</b>	<b>S.B. 273</b>	<b>S.B. 766</b>
<b>H.B. 1061</b>	<b>S.B. 300</b>	<b>S.B. 767</b>
<b>H.B. 2038</b>	<b>S.B. 324</b>	<b>S.B. 865</b>
<b>H.B. 2084</b>	<b>S.B. 354</b>	<b>S.B. 921</b>
<b>H.B. 2109</b>	<b>S.B. 389</b>	<b>S.B. 1157</b>
<b>H.J.R. 54</b>	<b>S.B. 463</b>	<b>S.B. 1162</b>
<b>S.B. 555</b>	<b>S.B. 1197</b>	<b>S.B. 1222</b>
<b>S.B. 562</b>	<b>S.B. 1275</b>	

### **MESSAGE FROM THE HOUSE**

House Chamber  
May 24, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT  
THE HOUSE HAS PASSED THE FOLLOWING:

**S.C.R. 99** Requesting the House to return **H.B. 1150** to the Senate for  
further consideration

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

### **SENATE RULE 103 SUSPENDED**

On motion of Senator Traeger and by unanimous consent, Senate Rule 103  
was suspended in order that the Committee on State Affairs might consider  
**H.B. 2229** today.

### **COMMITTEE SUBSTITUTE SENATE BILL 981 ON THIRD READING**

Senator Howard moved to suspend the regular order of business to take up  
for consideration at this time on its third reading and final passage:

**C.S.S.B. 981**, Relating to the interception and use of wire or oral communications; providing a penalty. (Submitted by Governor as an emergency.)

The motion prevailed by the following vote: Yeas 20, Nays 8, Present-Not Voting 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Longoria, Meier, Mengden, Moore, Patman, Price, Santiesteban, Short, Snelson, Traeger, Williams.

Nays: Clower, Doggett, Jones of Harris, Mauzy, Parker, Schwartz, Truan, Vale.

Present-Not voting: Ogg.

Absent: Creighton, McKnight.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 8.

Yeas: Andujar, Blake, Braecklein, Brooks, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Longoria, Meier, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Short, Snelson, Traeger, Williams.

Nays: Clower, Doggett, Jones of Harris, Mauzy, Parker, Schwartz, Truan, Vale.

Absent: Creighton, McKnight.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1176 ON SECOND READING**

Senator Ogg asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**C.S.H.B. 1176**, Authorizing a city, county, school district, conservation and reclamation district, hospital organization, and any other political subdivision of the State of Texas to enter into contracts for the use, acquisition, or purchase of property; authorizing the payment of such contracts from taxes or revenues; providing for payment of interest on such contracts; providing for compliance with other Acts, but not requiring referendum; providing for approval of the contracts by the attorney general and registration by the comptroller; providing for incontestability; making other provisions and giving the Act cumulative effect.

There was objection.

Senator Ogg then moved to suspend the regular order of business and take up **C.S.H.B. 1176** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 2.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Doggett, Farabee, Harris, Howard, Jones of Harris, Kothmann, Longoria, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Mauzy, Patman.

Absent: Creighton, Jones of Taylor, McKnight, Parker.

The bill was read second time.

Senator Ogg offered the following amendment to the bill:

Amend **C.S.H.B. 1176** by striking in Section 3 of the bill on page 3 number (11) and substituting in lieu thereof the following:

“(11) “Property” means personal property, appliances, equipment, facilities or furnishings, or an interest therein, whether movable or fixed, deemed by the governing body of the governmental agency to be necessary, useful or appropriate to one or more purposes of the governmental agency, but shall not include real property.”

The amendment was read and was adopted.

On motion of Senator Ogg and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### RECORD OF VOTE

Senator Patman asked to be recorded as voting “Nay” on the passage of the bill to third reading.

#### COMMITTEE SUBSTITUTE HOUSE BILL 1176 ON THIRD READING

Senator Ogg moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1176** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Doggett, Farabec, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Mauzy, Patman.

Absent: Creighton.

The bill was read third time and was passed.

#### RECORD OF VOTE

Senator Patman asked to be recorded as voting “Nay” on the final passage of the bill.

**MOTION TO PLACE HOUSE BILL 1351 ON SECOND READING**

Senator Clower moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 1351**, Relating to the definition and rights of certain utilities, amending Section 78 of the Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes).

The motion was lost by the following vote (Not receiving two-thirds vote of the Members of the Senate present): Yeas 16, Nays 12.

Yeas: Andujar, Braecklein, Brooks, Clower, Harris, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Price, Vale, Williams.

Nays: Blake, Doggett, Farabee, Howard, Jones of Harris, Patman, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan.

Absent: Creighton, Jones of Taylor, Moore.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 24, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

**H.C.R. 220** In memory of Harley Berg

**H.C.R. 221** Directing the chief clerk to correct H.B. # 867 in enrolling

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 783 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1955 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1480 by a vote of 112 Ayes, 21 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1986 by a vote of 127 Ayes, 1 Noes.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 296

House Conferees: Price, Chairman; McLeod, M. Garcia, Cain, S. Thompson

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 374

House Conferees: Nabers, Chairman; Laney, Hendricks, Harrison, McFarland

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 1068

House Conferees: Berlanga, Chairman; Sharp, Rangel, Uribe, McBee

The House refused to concur in Senate amendments to House Bill No. 1626 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: Heatly, Chairman; Bird, Rudd, A. Hill, Washington

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 2083 by a non record vote.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### COMMITTEE SUBSTITUTE SENATE BILL 1277 ON SECOND READING

On motion of Senator Jones of Taylor and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 1277**, Relating to the establishment of a parole commission and a criminal justice coordinating council, the granting and revocation of parole and mandatory supervision, and supervision of persons on parole and mandatory supervision.

The bill was read second time and was passed to engrossment.

#### RECORD OF VOTE

Senator Patman asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

#### COMMITTEE SUBSTITUTE SENATE BILL 1277 ON THIRD READING

Senator Jones of Taylor moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1277** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Tracger, Truan, Vale, Williams.

Nays: Patman.

Absent: Creighton, Mauzy.

The bill was read third time and was passed.

#### **MEMORIAL RESOLUTIONS**

**S.R. 635** - By Mcknight: Memorial resolution for J. Harold Stringer.

**S.R. 643** - By Snelson: Memorial resolution for Noah Malone Mitchell, Sr.

**S.R. 644** - By Snelson: Memorial resolution for John M. Jones.

**S.R. 645** - By Snelson: Memorial resolution for Robert Roy Spiller.

**S.R. 646** - By Snelson: Memorial resolution for John Charles Boyle.

**S.R. 650** - By Schwartz: Memorial resolution for Henry Frank Tauch, Sr.

**S.R. 655** - By Schwartz: Memorial resolution for Reverend Abel J. Jacko.

**S.R. 656** - By Schwartz: Memorial resolution for Mrs. Anna M. Rouse.

**S.R. 657** - By Schwartz: Memorial resolution for Luella Wagner Hasselmeier.

**S.R. 658** - By Schwartz: Memorial resolution for John Duke Winchester.

**S.R. 659** - By Schwartz: Memorial resolution for Mrs. Margaret Sullivan Marchand.

**S.R. 660** - By Schwartz: Memorial resolution for Albert Carl Janke, Jr.

**S.R. 662** - By Schwartz: Memorial resolution for Paul John Creel.

#### **WELCOME AND CONGRATULATORY RESOLUTIONS**

**S.C.R. 97** - By Howard: Expressing appreciation to Capitol Physicians.

**H.C.R. 215** - (Truan): Recognizing May 28 - June 3 as Vietnam Veterans Week.

**S.R. 633** - By Jones of Harris: Extending congratulations to Youth for Understanding.

**S.R. 634** - By Doggett: Extending congratulations to Gail Belcher.

**S.R. 636** - By Truan: Extending congratulations to Arnold Villarreal.

**S.R. 637** - By Clower: Extending congratulations to Angie Glasgow.

**S.R. 638** - By Clower: Extending welcome to Reverend J W Sellers.

**S.R. 639** - By Ogg: Extending congratulations to Otto Kammerer.

- S.R. 640** - By Longoria: Extending congratulations to Rod Hinojosa.
- S.R. 641** - By Jones of Taylor: Extending congratulations to Mr. and Mrs. David Lebowitz.
- S.R. 642** - By Doggett: Extending welcome to the fourth grade of Redeemer Lutheran School.
- S.R. 648** - By McKnight, Moore: Extending congratulations to Gussie Nell Davis.
- S.R. 649** - By Doggett: Extending congratulations to Kathryn Ledbetter.
- S.R. 651** - By Schwartz: Extending congratulations to Frank J. Vollert.
- S.R. 652** - By Schwartz: Extending congratulations to Mrs. Bonnie Rice.
- S.R. 653** - By Schwartz: Extending congratulations to Union Carbide.
- S.R. 654** - By Schwartz: Extending welcome to Rudy Hinojosa.
- S.R. 661** - By Schwartz: Extending welcome to students from Weis Junior High School.

#### ADJOURNMENT

On motion of Senator Moore the Senate at 4:15 o'clock p.m. adjourned until 10:30 o'clock a.m. tomorrow.

#### APPENDIX

Sent to Governor

(May 24, 1979)

<b>S.C.R. 51</b>	<b>S.C.R. 85</b>	
<b>S.B. 46</b>	<b>S.B. 490</b>	<b>S.B. 965</b>
<b>S.B. 66</b>	<b>S.B. 526</b>	<b>S.B. 986</b>
<b>S.B. 102</b>	<b>S.B. 553</b>	<b>S.B. 997</b>
<b>S.B. 172</b>	<b>S.B. 609</b>	<b>S.B. 1012</b>
<b>S.B. 178</b>	<b>S.B. 660</b>	<b>S.B. 1082</b>
<b>S.B. 209</b>	<b>S.B. 678</b>	<b>S.B. 1095</b>
<b>S.B. 278</b>	<b>S.B. 692</b>	<b>S.B. 1104</b>
<b>S.B. 292</b>	<b>S.B. 718</b>	<b>S.B. 1107</b>
<b>S.B. 309</b>	<b>S.B. 736</b>	<b>S.B. 1198</b>
<b>S.B. 340</b>	<b>S.B. 759</b>	<b>S.B. 1199</b>
<b>S.B. 349</b>	<b>S.B. 778</b>	<b>S.B. 1202</b>
<b>S.B. 369</b>	<b>S.B. 789</b>	<b>S.B. 1203</b>
<b>S.B. 371</b>	<b>S.B. 805</b>	<b>S.B. 1217</b>
<b>S.B. 372</b>	<b>S.B. 811</b>	<b>S.B. 1226</b>
<b>S.B. 406</b>	<b>S.B. 828</b>	<b>S.B. 1227</b>
<b>S.B. 434</b>	<b>S.B. 835</b>	<b>S.B. 1246</b>
<b>S.B. 439</b>	<b>S.B. 868</b>	<b>S.B. 1266</b>
<b>S.B. 451</b>	<b>S.B. 888</b>	<b>S.B. 1272</b>
<b>S.B. 457</b>	<b>S.B. 891</b>	<b>S.B. 1294</b>
<b>S.B. 10</b>	<b>S.B. 389</b>	<b>S.B. 766</b>